Proposed Permit Implementation Regulations
Response to Comments Received During 60-day Comment Period (April 7, 2006 to June 6, 2006)

Section #	Commenter #	Comment	Response
General Comment	60-15 PH-05	1. We commend CIWMB staff for the extensive outreach and communication with various parties regarding this proposed rule. 2. In general, we support the staff recommendations as embodied in the draft regulations submitted for public comment. <u>Public Hearing Comment</u> And first again want to commend the Board and the staff on a great process. Hope that some of the other Cal/EPA BDOs and other agencies take note of how thorough you are in your outreach and communication on your reg package. I mean that in all sincerity, because we often get sideswiped by other State agencies at the local level. Even though it's being posted, there's very little outreach to folks that are stakeholders or severely impacted by regs that go through. So to be commended again. In general, we're very supportive of the package and we also defer most of the detail and offer our fullest support to the LEAs.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
General Comment	60-10 PH-09	The rural counties of the Southcentral LEA Roundtable commend the Board on the process by which these regulations were developed.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
General Comment	PH-08	I was involved with a lot with this process, and so I just want to say it was a really good process and allowed the LEAs a lot of involvement and a lot of interactions between the operators and the LEAs and the Waste Board staff. So it was a really positive process, and I think we have a good set of regs to work with.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
General Comment	60-20	SWANA appreciates this opportunity to provide the California Integrated Waste Management Board (CIWMB) with comments on the proposed Permit Implementation Regulations. Several SWANA members participated in the AB 1497 work groups and found the interactions between CIWMB staff, Local Enforcement Agencies, other local agency staff, and public and private operators beneficial.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
General Comment	60-11	We appreciate the California Integrated Waste Management Board's (CIWMB's) public outreach efforts, workshops, and stakeholder participation early in the regulatory process. As a public agency serving over 5 million people in Los Angeles County and dedicated to environmentally and economically sound integrated management of municipal solid waste, we fully support CIWMB's efforts in developing regulatory language that is consistent with the directives of AB 1497.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
General Comment	PH-04	And as other people said, the process by the staff I thought was really good. It had a good involvement of LEAs, operators, Board members presence. So it was definitely much appreciated.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.

General Comment	60-19 PH-03	The California Refuse Removal Council (CRRC) is appreciative of the excellent deliberative process that has transpired up to this point and we look forward to continuing working with you in the development of the regulations. As we have communicated to CIWMB members and staff, we believe that the draft regulations contain many useful and worthwhile elements. <u>Public Hearing Comment</u> But what I really like was your attempt to do three things. One was the minor change list, the decision tree, and then the significant change. I think those are sort of the three key elements of it.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
General Comment	PH-10	And again like many others, I did find the process very helpful where you have staff, LEAs, and operators in one room looking at the same picture and all coming up with different answers. It was very helpful. We did get to some consensus, although the major frustration for the whole thing for me was with that many people in the room, it took one vote to take something off the list, no matter what the rationale was. And I talked to some of the people after and was amazed at the rationale. But never the less, we did end up with that list.	The proposed regulations were edited to allow operators to make minor changes that include, but are not limited to, those listed and that meet criteria specified in Section 21620(a)(1). These changes, whether listed or not, are supposed to be so minor that EA review and approval is not needed prior to the operator making the change. The operator is required to notify the EA of the change within 30 days of making the change. If the EA finds the change does not meet the criteria, the EA is required to provide a written finding to the operator explaining why the change did not qualify as a minor change and to require the operator to comply with all applicable requirements. This could include the EA using the decision tree in Section 21665 to determine that the change requires an amendment to the RFI, a modified permit, or a revised permit. The idea of operators giving EAs a heads-up about potential upcoming changes is good and will be promoted in planned EA guidance and training.
General Comment	60-24	The Santa Barbara County LEA is pleased to find that our comments provided during the 2005 Diamond Bar workshop and in a letter dated April 28, 2005 have been addressed, and the proposed regulatory changes reflect our suggestions effectively.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
General Comment	60-01 60-05	Maintain local control and discretionary actions as central to the permit process.	As a whole, the proposed regulations increase discretionary action by the EA, while providing a consistent analytical process for EAs to follow. Currently, the only process defined in existing regulations to make any changes to a solid waste facilities permit is to revise the permit. Pursuant to AB 1497 and the need to define the phrase "significant change in the design or operation of the solid waste facility that is not authorized by the existing permit," which determines when a permit needs to be revised, it became apparent that there is need to define a process for changes that do not require a permit revision. Creating a modified permit process allows modifications to a permit for changes that are less significant. The proposed regulations define the term "significant change in …" using a methodical process in the form of a decision tree for EAs to follow when they are presented with a request by an operator to make changes to the permit. The methodology provides a consistent analytical process for EAs to use that allows EAs to consider site-specific considerations and circumstances when determining if a proposed change is significant and requires a revision to the permit. In following this process, the EA will use the decision tree in Section 21665 to determine if a requested change to the design or operation of a facility proposed by the operator

			can be approved through an RFI amendment, modified permit, or revised permit. To provide certainty to operators and EAs on what changes could be made by an operator in the design or operation of a solid waste facility that would always require a permit revision, a significant change list was established that consists of four significant changes listed in Section 21620(a)(4). For all other changes in the design or operation of a facility proposed by the operator, the EA will use the decision tree in Section 21665 to determine if the proposed change can be approved through an RFI amendment, modified permit, or revised permit.
10303	60-16	Impact of Proposed Permit Implementation Regulations on §10303, Article 1, Chapter 3, Subdivision 1, Division 1, Title 27 CCR. Though not commonly referenced, §10303, Title 27 CCR outlines timeframes for EAs to process permits. The CIWMB needs to determine if §10303, Tables 1 and 2 will be impacted by the proposed regulations.	This comment is outside the scope of these regulations. It appears that Section 10303 has not been updated since 1995 and does not reflect all of the changes that have taken place by regulation and statute.
21563(d)(1)	60-18	Other agencies impose requirements upon solid waste facilities but are not appropriate to be included in the solid waste facility permit applications (e.g. building permits, safety requirements, air permit, …). This definition should be revised to reflect that only those relevant to the activities regulated by the Public Resources Code and regulations under Title 14 and Title 27 are required to be submitted. The language currently used in 14 CCR Section 18101 (d) is appropriate for use in this section.	This comment is outside the scope of these regulations.
21563(d)(1)	60-14	Section 21563(d)(1) defines "complete" in the following manner: "Complete" means all requirements placed upon the operation of the solid waste facility by statute, regulation, and other agencies with jurisdiction have been addressed in the application package. Although the definition of "complete in (d)(1) is consistent with the current regulations, we find that differs from the more succinct and specific definition of "complete" provided by 14 CCR Section 18101(d): "Complete" means all information required as part of a solid waste facilities permit application submitted pursuant to this Article has been provided. It seems opportune to us to adjust the definition through this process. Please amend Section 21563(d)(1) so that it is consistent with 14 CCR Section 18101(d).	This comment is outside the scope of these regulations.
21563(d)(1)	60-28	Section 21563, subsection d(1) should make it clear that permitting agencies must accommodate concurrent processing. This section should specifically state that concurrent processing is allowed. It should be made very clear that "addressed" does not mean "completed." Furthermore, the regulations should make it clear that the applicant can waive statutory timelines, because this may be necessary in order to accommodate other permitting processes.	This comment is outside the scope of these regulations.

21563(d)(2)	60-13 60-25	As discussed below, the Task Force strongly recommends that the proposed regulations must avoid promoting/creating any conflict between the host jurisdiction's land use permit/entitlement and the Solid Waste Facility Permit (SWFP). If this is allowed to occur, solid waste facilities will be issued a SWFP that is inconsistent with the facility's design/operational criteria established by the host jurisdiction's land use permit. This would create public confusion and a legal dilemma as to which permit governs; weaken the host jurisdiction's land use authority; and, create the perception that the layers of their government are not coordinating the basic permit requirements for a major facility in order to ensure the protection of public health and safety and the environment. *Specific Request* – Either delete the proposed new text: "This does not include verifying for correctness information contained in the land use and/or conditional use permit which the applicant submits pursuant to [Section] 21570(f)(9)" **OR** expand the definition to add the following: "This does not include verifying for correctness information contained in the land use and/or conditional use permit which the applicant submits pursuant to [Section] 21570(f)(9). However, the applicant, as a part of the application package, shall provide a written confirmation from the host jurisdiction's planning agency verifying that the proposed permit activity is consistent with the land use entitlements for the facility." *Discussion* – Pursuant to Section 44012 of the Public Resources Code, the primary purpose of the SWFP is to ensure the protection of public health and safety and the environment. If regulations are adopted in their current form, we believe solid waste facilities will be issued a SWFP that may be inconsistent with facility's design/operational criteria established by the host jurisdiction via the land use permit/entitlement. The criteria are often significantly more restrictive than the mitigation measures identified in the California Environmental Quality Act document. Since the land use permit is the primary vehicle for establishing the parameters for the "operation" of a solid waste facility, we do not believe it is possible for the CIWMB to determine if a SWFP application is complete and correct without ensuring consistency with the local land use permit. In addition, this new provision would undermine local governments' land use authority since it would create a legal quandary as to which permit conditions govern. The intent of Assembly Bill 1497 (Montanez, 2003) is to improve the "conditions for communities with solid waste facilities located in their neighborhoods and ensure adequate consideration is given to environmental justice issues." If the proposed text is adopted, it would also undermine the intent of AB 1497 since it would prohibit the CIWMB-approved local enforcement agencies from verifying that the information contained in the SWFP application is consistent with the local land use permit. This is especially relevant since local land use conditions are often the mechanism by which jurisdictions address environmental justice concerns and other issues raised by the community. Our proposal would ensure consistency without imposing/recommending any additional duties to the CIWMB and/or LEAs.	Based on the comments received during the 60-day comment period that the proposed regulations must avoid promoting/creating any conflict between the local jurisdiction's land use permit/entitlement and the SWFP process, staff changed the proposed regulations to remove land use from EA decisions on acceptance of a complete and correct permit application package to the EA considering land use entitlements when drafting permit terms and conditions, which is when the EA considers the content of other entitlements, permits, and approvals when processing a SWFP. The Note in Section 21650(i) is amended to clarify that when writing permit conditions the EA should be aware of and take into consideration other permits, entitlements and approvals, such as Air Pollution Control District/Air Quality Management District permits to construct and operate, Department of Fish and Game permits, and Coastal Commission approvals. Further clarification is provided that when writing permit conditions the EA should take into consideration PRC Section 44012, which requires the EA to ensure that primary consideration is given to protecting public health and safety and preventing environmental damage, and the long-term protection of the environment. This approach acknowledges that the EA should be aware of and take into consideration other permits and approvals when writing permit terms and conditions, but does not put the EA in the position of enforcing local land use permit conditions by not processing a solid waste facilities permit application. Nothing in the proposed regulations will prevent or hinder a local jurisdiction from carrying out their responsibility relative to enforcing local land use requirements. Operators are still bound to comply with local land use permit conditions, which are enforced by local agencies that are charged with the responsibility. Consistent with this approach, the existing requirement in Section 21570(f)(9), that the operator include as part of a complete and correct application package a copy of land use entitlements for the facility, was deleted. State law has not mandated that the EA be an agency required to verify if the information in the land use approval is correct or if the facility has the approval of the local government to operate as proposed under a solid waste facilities permit. The appropriate agency for making local land use determinations is the local government having jurisdiction, in most cases, the city or county in which the facility is located. The proposed language in Section 21563(d)(2), that the definition of "correct" did not include the EA verifying for correctness information contained in the land use and/or CUP, was deleted for the same reason. The proposed regulations also allow for an increase in the opportunity for communication by requiring the operator to submit a copy of the SWFP application to the local planning agency when the application is submitted to the EA for consideration. By doing so the local land use authority will have knowledge of the proposed changes and can act on those aspects that are within their jurisdiction.
21563(d)(2)	60-23	This section, which defines "correct", has been revised to include the statement, "This does not include verifying for correctness information contained in the land	Please see response to commenters 60-13 and 60-25 regarding Section 21563(d)(2).

		use and/or conditional use permit which the applicant submits pursuant to §21570(f)(9)." The inclusion of this statement means that a Solid Waste Facility Permit (SWFP) application could include a Report of Facility Information (RFI) that describes a solid waste facility's parameters that conflict with the conditions of the land use permit/Conditional Use Permit (CUP). For example, a RFI describes a solid waste facility that receives solid waste for longer hours than allowed by the CUP, a violation of its CUP [Note: Assume the California Environmental Quality Act document for the solid waste facility allowed the longer hours for the receipt of solid waste.]. The SWMP normally incorporates conditions of the CUP, which pertain to solid waste, e.g., hours of receipt of solid waste, into the proposed SWFP. If the proposed permitting implementation regulations are adopted, the SWMP would be required to accept the application given in the example. Yet, the proposed SWFP would have hours of receipt of solid waste that would be in conflict with the RFI. Assuming the applicant did not revise the RFI to reflect the proposed SWFP with regards to the hours for the receipt of solid waste, this could result in the applicant appealing the proposed SWFP to the hearing panel pursuant to Section 2165(g) of Title 27 of the California Code of Regulations (27CCR) or the California Integrated Waste Management Board (CIWMB) receiving a proposed permit that conflicted with the accepted application package submitted pursuant to Section 21650(f)(2) of 27CCR, both of which would result in an unnecessarily time-consuming and confusing situation. The SWMP respectively requests that the additional statement be removed from Section 21563(d)(2), or that the statement be expanded to require the applicant, as a part of the application package, provide a written confirmation from the host jurisdiction that the proposal is consistent with their requirements, i.e. land use entitlement, CUP, zoning.	
21563(d)(2)	60-26	We are especially concerned when it comes to Solid Waste Facilities Permits (SWFP). It has come to our attention that the potential changes may create a conflict between the host jurisdiction's land use permit/entitlement and the Solid Waste Facility Permit (SWFP) which will result in a SWFP being issued that is inconsistent with the facility's design/operational criteria as established by the host jurisdiction's land use permit. As such it would create confusion on the part of the public and potentially result in the public's health and safety being compromised. Delete the proposed new text: *"This does not include verifying for correctness information contained in the land use and/or conditional use permit which the applicant submits pursuant to [Section] 21570(f)(9)"* and require the applicant, as part of the application package "provide a written confirmation from the host jurisdiction's planning agency verifying that the proposed permit activity is consistent with the land use entitlements for the facility."	Please see response to commenters 60-13 and 60-25 regarding Section 21563(d)(2).
21563(d)(2)	60-04 60-27	The City of Palmdale would like to express our opposition to the proposed Permit Implementation Regulations. While we support the legislative intent of Assembly	Please see response to commenters 60-13 and 60-25 regarding Section 21563(d)(2).

		Bill 1497 (Montanez, 2003) of ensuring residents living near a solid waste facility are afforded proper notification regarding any significant changes to the facility's design and/or operation, we cannot support the proposed Regulations as currently drafted. We believe that the proposed Regulations do not address the importance of the California Integrated Waste Management Board's fiduciary responsibility to verify the facility's consistency with the host jurisdiction's land use permit prior to issuing a Solid Waste Facility Permit (SWFP) or a revision thereto. Without this direct verification (or indirectly by having the facility owner/operator to submit a letter from the host jurisdiction verifying that the proposed activity is consistent with the land use permit), we believe solid waste facilities will be issued a SWFP that may be inconsistent with criteria established for the design and operation of the facility by the host jurisdiction. This would create public confusion and a legal dilemma as to which permit governs. Ultimately, the proposed Regulations will weaken the host jurisdiction's land use authority. This matter poses a particular concern to the City as the Antelope Valley Public Landfill is located in the City Palmdale. Since land use authority is one of local government's most important tools to protect the public health, safety and welfare of its residents, we there urge the CIWMB not move forward in promulgating the proposed Regulations until it addresses this issue.	
21563(d)(2)	60-11	The Districts also supports maintaining a separation between the solid waste facility permit process and the local land use entitlement process, such as conditional use permits (CUPs). Operators must adhere to the most restrictive permit or requirements imposed on the operations. Moreover, the local land use authority always has the ability to enforce CUP conditions.	Please see response to commenters 60-13 and 60-25 regarding Section 21563(d)(2).
21563(d)(2)	60-18	The new clarification that the information in the land use and/or conditional use permit should not be verified for correctness is appropriate. This new language creates an inconsistency with the definition of "Correct" 14 CCR 18101 (e) that should be addressed.	Please see response to commenters 60-13 and 60-25 regarding Section 21563(d)(2).
21563(d)(2)	60-14	Similarly, the definition for "correct" is inconsistent with 18101(c). Please replace the proposed definition of "Correct" in Section 21563 (d)(2) with the existing definition provided by 14 CCR Section 18101(e): "Correct" means all information provided by the applicant as part of a solid waste facilities permit application submitted pursuant to this Article is accurate, exact, and fully provides the applicable filing requirement information for the solid waste facility for which a permit is being sought.	This comment is outside the scope of these regulations.
21563(d)(4)	60-17	The Regulations Fail to Require a Public Hearing. AB 1497 requires the enforcement agency to hold a public hearing. Pub. Res. § Code 44004(h). Under the Government Code § 11346.8, public hearing has a specific definition which requires not only an opportunity for the public to comment, but also requires agencies to respond to public comments. Instead of a public hearing, the regulations provide for an informational meeting which does not require a response to comments. Environmental justice is more than simply an opportunity to	The informational meeting is strictly informational in that information is shared both ways from EAs and from attendees. No decision is made at the meeting and the EA is not required to respond directly to comments. Board staff is not aware of any general requirement in state law that agencies holding public hearings provide formal responses to speakers' comments (Government Code Section 11346.8, which applies to public hearings held as part of the State's formal rulemaking process, is an exception). State agencies are required to follow this process in the

		comment. Public comment must also have the chance to substantively change the project. If there is no requirement to respond to public comments, it is less likely public comment will have an impact on the solid waste facility under review.	development of regulations. However, to provide the Board with a better understanding of informational meeting comments and to place the comments in the record of approval as well as any written comments received, and, where applicable, any steps that were taken by the EA in response to those comments, a requirement was added in Section 21650(g)(5) that the EA include with the accepted application package that is submitted to the Board, in addition to written public comments received, "… a summary of comments received at the informational meeting, and, where applicable, any steps taken by the EA relative to those comments." Board staff already asks EAs for this information currently when writing agenda items for the Board meeting. This information assists the Board in determining what general actions if any might be needed to meet EJ objectives. Guidance will be developed for the EA after the regulations are adopted on how they may wish to handle comments received in writing or orally at the informational meeting.
21563(d)(4)	60-16	As part of the permitting process, the CIWMB has introduced the concept of an informational meeting would allow the public to be informed of the changes being proposed for a solid waste facility. Although the proposed regulations state that the informational meeting is strictly "informational", the decision for the EA to officially act on the application is delayed after the meeting. In many facets, the meeting is a public hearing where the public is allowed to voice their concerns, comments, and potentially impact the permitting process. We believe that in order for the informational meeting to be truly "informational", the public can request information but not submit comments that would influence the EA's decision in the permitting processing. In addition, the public should not be allowed to appeal the EA's decision to accept the application package to the local Solid Waste Hearing Panel. Since new and revised SWFPs cannot be issued without proper land use approvals and the preparation of California Environmental Quality Act (CEQA) documents, the proper avenue for the public to submit comments or appeal the project is during the environmental review period and to the local body that has authority to approve or reject the CEQA document. CEQA is a comprehensive unifying process that considers all public comments and evaluates a wide spectrum of environmental impacts under the jurisdictions of multiple regulatory agencies. To allow the public to comment on the SWFP application package is redundant of the CEQA process and is unfair to the operator since the CEQA document has already been approved. Furthermore, the proposed regulations do not provide a decision making process for the EAs on how to consider public comments in the permitting process. We are suggesting minor revisions to the definition of "Informational Meeting" as proposed in Section 21563(d)(4) Title 27 CCR: *"Informational Meeting - means a meeting where the public is invited to hear ~~and comment on~~ the ~~preliminary~~ determination of the action to be taken by the EA on an accepted application package. The meeting is strictly informational..."*	The informational meeting is strictly informational in that information is shared both ways from EAs and from attendees. No decision is made at the meeting and the EA is not required to respond to comments. Any action or inaction by an EA is something that can be appealed to the hearing panel. The informational meeting requirement for new full permits is not a duplication of the land use public hearing process or CEQA. Land use entitlements are not always required for every solid waste facility and public hearings either are not held in every case, were held years ago, or may be too broad in scope and may not address the issues associated with a solid waste facility. In these cases, the informational meeting would not be duplicating a land use hearing. The proposed regulations allow the EA to substitute, for a new informational meeting if the applicant does not object, a comparable public hearing that was held within the year. In the case of CEQA, not every solid waste facilities permit will have gone through a CEQA process. Also, the CEQA process includes public notice requirements, but does not require a public hearing. AB 1497 set up a hearing requirement and the proposed regulations recognize that the "hearing" by the LEA is not a typical public hearing. To provide the Board with a record of comments that were received by the EA at the informational meeting as well as any written comments received, and, where applicable, any steps that were taken by the EA in response to those comments, a requirement was added in Section 21650(g)(5) that the EA include with the accepted application package that is submitted to the Board, in addition to written public comments received, "… a summary of comments received at the informational meeting that are specific to EA jurisdiction, and, where applicable, any steps taken by the EA relative to those comments." Guidance will be developed for the EA after the regulations are adopted on how they may wish to handle comments received in writing or orally at the informational meeting. The proposed regulations clarify in Sections 21660.3(a)(10) and 21660.4(a)(9) that the noticing on the availability of an appeal process pursuant to PRC Section 44307 applies only to formal discretionary action taken by the EA with regard to the application (i.e., approving RFI amendments or later issuing or denying a modified, revised, or new permit). The notice for new or revised permits would be announcing that when the EA issues or denies the permit, this formal action would be subject to a PRC Section 44307 appeal in Section 21660.3(a)(10) and Section

			21660.4(a)(9) for substituted meetings.
21563(d)(4)	60-28	Multi-purpose meetings. Several laws contain requirements for public meetings on permit applications. Section 21660.4 specifies that a CEQA scoping meeting held BEFORE the required EA "informational meeting" may substitute for the information meeting; however, it should also specifically allow that the applicant may waive the timeline during which the informational meeting must be conducted. This meeting could then be combined with a CEQA scoping meeting that comes too late for the LEA to include it within the specified time limits (section 21580). This comment also applies to section 21563 subpart d(4), section 21570 subpart b, section 21650, subparts e and g(7), and section 21660.2, subpart b. In section 18104.2, subsection e, the following words should be added to the end "or shall attend and participate in a similar public meeting held on the project."	PRC Section 44004(h)(1)(A) as amended by AB 1497 requires the EA to hold a public hearing (i.e., informational meeting) within 60 days of receiving an application for a revised permit. This time can only be extended if the application received is incomplete and the applicant has requested a time waiver and the LEA has agreed to the request. In this case, Section 21580 requires the EA to notice and conduct an informational meeting within 30 days after deeming the application complete and correct. Consistent with the intent of AB 1497, the time for the EA conducting an informational meeting is early in the process, prior to the EA making a determination on the permit application, affording the public an early opportunity to be better informed of changes proposed by operators at solid waste facilities. Section 18104.2(e) only requires noticing by the EA and does not require the EA to conduct an informational meeting.
21563(d)(4)	60-14	The concept of meeting substitution violates the author's intention to "ensure" that the public is involved during the consideration of a permit revision. Bill analyses capturing the development of AB1497 explicitly describe the importance placed on "ensuring landfills are operated in a manner that protects public health, the environment, the rights of workers and the local citizens who live near a landfill."[1] As an avenue for ensuring public involvement, the concept of "informational meetings" was added to the legislation. The Initial Statement of Reasons (ISOR) describes these meetings as an opportunity to hear about the proposed solid waste activities to be permitted: AB 1497 requires the EA to hold a public hearing before making a determination on the action to be taken by the EA on an accepted application package. The hearing as described in AB 1497 is an informational meeting where the public is provided an opportunity to hear about the proposed solid waste activities to be permitted and to comment on the preliminary determination being espoused by the EA. The substitution concept denies the public this opportunity and therefore makes it inconsistent with the legislative intent. Therefore, please delete the following proposed text from Section 21563(d)(4), "unless the EA substitutes another meeting/hearing that meets the provisions in §21660.4."	Substitute meetings ensure that the public is involved in the process. A meeting cannot be substituted unless it is substantially the same as the informational meeting: it has to be a public meeting on the same project; held no more than a year prior to the EA accepting the application as complete and correct; and the EA has attended the previously held hearing/meeting, been recognized by the presider of the meeting, and was available to answer questions. In addition, the EA is required to provide the same level of noticing when using a substituted meeting as required for an informational meeting. EA presence at the previously held public hearing to answer questions that only the EA can answer with regard to a proposed new solid waste facility or facility change is consistent with the intent of holding an informational meeting, which is to allow the public to be better informed of changes proposed by the operator. However, if an operator does not want the EA to use a substitute meeting in place of an informational meeting, pursuant to Sections 21660.2(d) and 21660.4, the operator can raise its objection and the EA will not be able to use a substitute meeting.
21563(d)(5)	60-07	I recommend keeping the sections identified here (a. – d.) as they simply and adequately provide a definition for significant change without conflict or confusion. a. Section 21563(5) – definition of "nonmaterial change" b. Section 21563(6) – definition of "significant change" c. Section 21665 – defines when a proposed change requires an RFI amendment, modified solid waste facility permit (SWFP), or a revised SWFP. d. Section 21665 – provides the Decision Tree that incorporates the above referenced sections into a decision process to identify whether a change in operation or design is an RFI amendment or a Modified or Revised permit	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.

		action.	
21563(d)(5)	60-09 PH-01	"Nonmaterial Change". The proposed definition at the top of page 2 relates to whether a proposed change would be eligible for a permit modification as opposed to a permit revision. If it were a "nonmaterial change" it would be potentially eligible for a permit modification. Consistent with our further comments below, we are concerned that very small physical changes to a facility should still be considered eligible for a permit modification. We request that the language of this definition be changed to: (5) "Nonmaterial change" means a change that would require a change to the solid waste facilities permit but would not result in any substantial physical change that would materially alter the approved design or operation of the facility. The words "substantial" and "materially" (or something like them) are intended to clarify that a nonmaterial change could cause minor physical changes that do not materially alter the facility. This is consistent with the common usage of the term "nonmaterial". Please see our further comments below related to "significant change". Public Hearing Comment Related to this last change, we think there needs to be a change in the term non-material. It's defined up front. And the current definition of non-material reads as if you can't make any physical change or anything that would alter the approved design or operation of a facility. So we think that we need to add some qualifying language to that non-material change definition such that the change is non-material if it does not result in any substantial physical change that would materially alter the approved design or operation of the facility.	The definition for "nonmaterial change" in Section 21563(d)(5) already addresses the commenters' concerns. As proposed in the regulations, there are two ways a proposed change that requires the permit to be changed can qualify as a modified permit. First, a proposed change can qualify if it is "nonmaterial" and would not result in any physical change that would alter the approved design or operation of the facility (Section 21665(d)(1)). An example of a nonmaterial change is where the permit needs to be changed to include new information, but there is no change to the design and operation at the facility (e.g., the EA updates the reference to a newly revised waste discharge requirement (WDR) in the permit issued by the EA). Second, a proposed change can qualify for a modified permit if it does result in a physical change to the existing design and operation of the facility (i.e., it is not a "nonmaterial" change), but the EA sees no need to add to the permit further restrictions, prohibitions, mitigation, terms, conditions, or other measures to protect public health, public safety, ensure compliance with SMS, and to protect the environment (Section 21665(d)(2)). This means that as long as a proposed change that requires the permit to be changed (be it a physical change or not) does not require additional restrictions, prohibitions, mitigation, terms, conditions, or other measures to be added to the permit by the EA, it can qualify as a permit modification. Hence, the edits proposed by the commenters' to clarify that the physical change is "substantial" and would "materially" alter the approved design or operation of the facility, are not necessary since they are already covered under Section 21665(d)(2). If the EA does see the need to add a restriction, prohibition, etc. to the permit to adequately protect public health, public safety, ensure compliance with state minimum standards, and to protect the environment, then the change is determined to be significant and the permit needs to be revised. Clarification was added that the definition only applies to permit modifications, making it clear that the term "nonmaterial changes" does not apply to other permit-related processes, such as minor changes, RFI amendments, or revised permits.
21563(d)(5)	60-20	A Modified Solid Waste Facilities Permit process should also allow for nonmaterial changes that are physical changes as long as it does not significantly alter the approved design or operation of the facility A Modified Solid Waste Facilities Permit process should also allow for nonmaterial changes that are physical changes as long as it does not significantly alter the approved design or operation of the facility. Any physical change should not automatically result in a permit require a full revision. Many of the items mentioned in the Minor Change List include physical changes such as replacing equipment. As long as the physical change does not require additional restrictions and complies with State minimum standards and the solid waste permit, it should be allowed as a "Nonmaterial change". The definition should be changed to: (5) "Nonmaterial change" means a change that would require a change to the solid waste facilities permit but would not result in any substantial physical change that would materially alter the approved design or operation of the	Please see response to commenters 60-09/ PH-01 regarding Section 21563(d)(5).

		facility.	
21563(d)(5)	60-18 PH-10	The other main concern of the ESJPA is that the term. "Nonmaterial change", should not be limited to non-physical changes. Physical changes can include nearly any change including some that are listed as minor changes. This term should be revised as indicated in the attached comments. Section 21563(d)(5) "Nonmaterial change" – There are physical changes that can occur at the solid waste facility, potentially including ones listed as minor changes, that should be included in the definition of "Nonmaterial change". The term physical change is so broad and can include not only adding sizable physical structures but also adding or modifying small operational equipment. Minor physical changes can meet the criteria used in the Modified Solid Waste Facilities Permit Criteria in Section 21665 (d)(2) of: the proposed change is such that the solid waste facilities permit does not need to include further restrictions, prohibitions, mitigations, conditions or other measures to adequately protect public health, public safety, ensure compliance with State minimum standards or to protect the environment. Since a requirement of a Modified Solid Waste Facilities Permit is limited to changes that are "nonmaterial change", this limitation to nonphysical changes creates a conflict. Some of the potential physical changes that might result from minor change list items include: Alternative 1 • (iv) changes in emergency equipment – adding spill containment devices or additional fire extinguishers is a physical change • (v) Replacing equipment is a physical change since it is physically different than what was there before. • (vii) changes in tanks is a physical change since it is physically different than what was there before. • (viii) changes in location of backup equipment is a physical change Alternative 2 • (i) Replacing a monitoring point is a physical change • (iv) Changes in containers used for storage is a physical change • (vii) Changes to facility signage wording is a physical change • (viii) changes to personal protective equipment is a physical change • (ix) Changes to traffic patterns are a physical change • (xv) Purchase of property adjacent to the facility is a physical change Other potential nonmaterial physical changes might include: • Adding a fence to screen or secure an area or delineate an operation area • Moving a portable toilet from one area to another. • Repair of building or electrical equipment • Paving a road or parking area Obviously, the list of minor physical changes is endless. We recommend the definition should be changed to:	Please see response to commenters 60-09/ PH-01 regarding Section 21563(d)(5).

		(5) "Nonmaterial change" means a change that would require a change to the solid waste facilities permit but would not result in any substantial physical change that would materially alter the approved design or operation of the facility. Public Hearing Comment First off, the minor change provision. I also want to echo the concept about the physical change portion, because there are many things that are physical and I guess I just don't understand what definition we're using of physical change is. Because even some of the things that are on the minor list now you could look at being physical changes. When you add equipment, that can be a physical change. You're making a change to something that was there or wasn't there or changing its configuration. When you change a tank, you're making a physical change. So if we limit the material change to things that are only physical, that causes a problem. So I'd like to see that removed, and I do support the Waste Management language on that for non-material change to remove the physical change portion.	
21563(d)(6)	60-07	Please see commenter 60-07 comments regarding Section 21563(d)(5).	Please see response to commenter 60-07 regarding Section 21563(d)(5).
21563(d)(6)	60-14	Subparagraphs (d)(5) and (d)(6) of Section 21653, when read together, suggest that a significant change must be physical and applicable to permitted solid waste facilities. Section 21653(d)(5), defining non material change, currently reads: "Non material change" means a change that would require a change to the solid waste facilities permit but would not result in any physical change that would alter the approved design or operation of the facility. Section 21563(d)(6) currently reads: "Significant Change" means a change in design or operation of a solid waste facility where the EA has determined pursuant to §21665 that the change is of such consequence that the solid waste facilities permit needs to include further restrictions, prohibitions, mitigations, conditions or other measures to adequately protect public health, public safety, ensure compliance with State minimum standards or to protect the environment. If a significant change is a "change in design or operation of a solid waste facility" and a non material change is a change that "would not result in any physical change that would alter the approved design or operation of the facility," by definition, a non material change cannot be a significant change. If a non material change is not physical, a significant change, logically, must be. This thinking is consistent with the ISOR, which states that non material change category was necessary to "identify the type of change proposed by an operator that would qualify for a permit modification, rather than a permit revision." Non material changes would never rise to a level of significance requiring a permit revision. Please clarify the type of change and the type of facility to which Section 21563(d)(6) would apply by amending the section in the following way:	There are two ways a proposed change that requires the permit to be changed can qualify as a modified permit. First, a proposed change can qualify if it is "nonmaterial" and would not result in any physical change that would alter the approved design or operation of the facility (Section 21665(d)(1)). An example of a nonmaterial change is where the permit needs to be changed to include new information, but there is no change to the design and operation at the facility (e.g., the EA updates the reference to a newly revised waste discharge requirement (WDR) in the permit issued by the EA). Second, a proposed change can qualify for a modified permit if it does result in a physical change to the existing design and operation of the facility (i.e., it is not a "nonmaterial" change), but the EA sees no need to add to the permit further restrictions, prohibitions, mitigation, terms, conditions, or other measures to protect public health, public safety, ensure compliance with SMS, and to protect the environment (Section 21665(d)(2)). This means that as long as a proposed change that requires the permit to be changed (be it a physical change or not) does not require additional restrictions, prohibitions, mitigation, terms, conditions, or other measures to be added to the permit by the EA, it can qualify as a permit modification. If the EA does see the need to add a restriction, prohibition, etc. to the permit to adequately protect public health, public safety, ensure compliance with state minimum standards, and to protect the environment, then the change is determined to be significant and the permit needs to be revised. Hence, the comment to clarify that modified permits are for non-physical changes while significant changes are physical is not correct. Also, clarification that the facility is "permitted" is redundant and not necessary since for both modified and revised permits the changes would be to the permit.

		"Significant Change" means a physical change in design or operation of a permitted solid waste facility where the EA has determined pursuant to §21665 that the change is of such consequence that the solid waste facilities permit needs to include further restrictions, prohibitions, mitigations, conditions or other measures to adequately protect public health, public safety, ensure compliance with State minimum standards or to protect the environment. Additionally, we reviewed prior EA guidance, LEA Advisory #54 "1998 Inspection Guidance for Solid Waste Landfills, to find further support for this perspective. Examples of significant changes include "tonnages increases, landfill elevation increases, expansions of operations into property not within the current permitted boundary, new operations (composting, energy recovery, etc.), and the acceptance of un-permitted wastes," (page 11). These are physical changes in the design and operation of a solid waste facility.	
21563(d)(6)	60-08	The heart of this proposal, and the only element that is required by AB 1497, is the definition of "significant change" in the phrase "significant change in the design or operation of he solid waste facility that is not authorized by the existing permit" as used in PRC 44004(a). The proposal takes a fundamentally wrong approach to this task, by equating the significance of a change requiring a permit revision, to whether the EA decides to "include further restrictions, prohibitions, mitigations, conditions or other measures to adequately protect human health, public safety, ensure compliance with State minimum standards or to protect the environment." (21563(b) (6).) This approach flies in the face of decades of CEQA practice state-wide, in which "significant" impacts must be acknowledged and disclosed even where they are not susceptible to mitigation below a level of significance. The significance of a change or impact should not be equated to or depend upon an ultimate decision that it is feasible to mitigate that change or impact. Particularly for solid waste disposal facilities, a change in a permit may have significant impacts that cannot be effectively mitigated, but which will instead be overridden. It may be appropriate, for example, to increase the allowed daily capacity of a landfill despite traffic impacts that cannot be mitigated, if the added capacity is needed and no better alternatives are available. Conversely, an EA may impose "restrictions, prohibitions, mitigations, conditions or other measures to adequately protect human health, public safety, ensure compliance with State minimum standards or to protect the environment" in connection with changes that have no significant impact, for any number of reasons. A condition may be essentially a standard recitation to inform the applicant of an existing legal requirement (e.g., comply with state minimum standards). A restriction or condition may be included in a permit in response to a comment, even if the scenario or concern raised in the comment is not really a significant matter, or even if the restriction or condition is never expected to become a binding constraint based on actual operations. The proposed definition of "significant change" would also undermine an important practical dynamic that now works to secure applicant acceptance of clear and	The use of the term "significant change" is only for the purpose of determining when a permit needs to be revised as a process for reviewing and approving the requested changes in design and operation of the facility and approving the requested changes in design and operation of the facility pursuant to PRC Section 44004(a) and should not be used for any other purpose, such as determining when a change in design or operation at a facility triggers compliance with CEQA. Any links to findings of potential environmental effects is not and has not been made an aspect of the definition. Only if there is a need to add to the permit to protect public health safety, the environment or insure compliance with state standards will a permit need to go through a revision process. PRC Section 44004(i)(1) requires the Board to define the term "significant change in the design or operation of the solid waste facility that is authorized by the existing permit." To further clarify that the definition is only for the purpose specified in PRC Section 44004(i)(1), Section 21563(d)(6) was edited by deleting "making determinations relative to CEQA, Title 14 CCR Section 15000 et seq." and replacing with "any other purpose." The sentence now reads: "The definition is only for purposes of determining when a permit needs to be revised and should not be utilized for any other purpose.

		enforceable permit conditions. In general, it is clearly in an applicant's best interests today to prefer CEQA documents and permits in which significant impacts are clearly identified, whether they are then expressly mitigated or only overridden. Identification of impacts makes litigation less likely. The definition of "significant change" that staff has proposed would instead effectively require that every "significant" change be mitigated, and it would also transform every impact for which mitigation was offered into a significant impact. The inevitable result would be greater reluctance on the part of applicants to agree that mitigation was needed, or to agree that a change or impact was "significant." A further concern here is that some permit changes may have significant impacts that can and should be mitigated but not by the EA. Mitigation may instead be imposed by an RWQCB or a resource agency in connection with another required permit. Under the proposed definition, these changes would not be identified as significant because the EA would not impose the necessary and feasible mitigation in the EA's permit. A new definition of "significant change", section 21563 (d)(6), is needed. We suggest the following: *"The EA determines that the change itself would have or could have a significant adverse effect on human health or the environment, that will not be reduced to an insignificant level through compliance with applicable requirements of the Public Resources Code or CIWMB regulations; and the EA has identified additional feasible prohibitions, mitigations, conditions or other measures for consideration as permit requirements to reduce those adverse impacts."*	
21563(d)(6)	PH-06	I have one point I'd like to work on. It's following what we've been discussing here having to do with significance. The regulations help take that, that is the purview of the Waste Board, and define what then becomes the issue in CEQA and/or NEPA as we go further. If you look a little further down the road and we're faced with the CEQA documentation that needs to determine whether or not an element within the Waste Board's purview is indeed a significant change, that's the determination of significance that we need to rely upon. But I would also suggest – I don't know if it needs to be in the regulations, although I would suggest not putting a closed list in the regulations. I certainly don't think that's appropriate. But I think we already have existing policy regarding ratcheting up as was suggested. I think that any time that a request comes to the LEA determination perhaps from the decision tree comes out of the LEA, if there's a point of dissension or if there is a potential conflict in the future, particularly if we're looking down the road to CEQA or NEPA, then I think it would be appropriate to lean on that policy of the Waste Board that the LEA can request of the Waste Board a finding. And I think if we look at this in terms of where we're going with the determination of significant, if down the road we find that we see there is a formal finding that resulted from a discussion of this nature, that finding would stand as the purview item within A CEQA or NEPA documentation. And that's the point that I would	Please response to commenter 60-08 regarding Section 21563(d)(6).

		like to see. Now whether or not that has to be in the regulations, I think it's already standing policy. But if, indeed, we can take the one item of question and bring it before the Board for a finding and the formal finding be made on that issue of significant in terms of the Board's purview for CEQA or NEPA in the future, I think we've closed the loop on what the 1497 was trying to do.	
21563(d)(6)	60-21	The Department believes that to comply with the AB 1497 mandate, that CIWMB should adopt regulations that only define the term "significant change" and direct the EA/CIWMB staff to find that items not listed in the "significant change" definition do not require permit revision. As stated above, if not on the "significant changes" list, no revision to the permit should be required and the regulations should clearly reflect that requirement. **RCWMD Proposed List of "Significant Changes"** 1. Increase in maximum amount of permitted tonnage of all waste received. 2. Increase in the facility's permitted acreage. 3. Increase in the permitted hours of operation. 4. For landfill, increase in permitted disposal footprint and/or permitted (final grade) the maximum overall height.	AB 1497, effective January 1, 2004, requires the Board (to the extent resources are available) to adopt regulations that define the term "significant change in the design or operation of the solid waste facility that is not authorized by the existing permit." The proposed regulations define the term "significant change in …" using a methodical process in the form of a decision tree in Section 21665 for EAs to follow when they are presented with a request by an operator to make changes to the SWFP. The methodology provides a consistent analytical process for EAs to use that allows EAs to consider site-specific considerations and circumstances when determining if a proposed change is significant and requires a revision to the permit. In following this process, requested changes to design and operation that require the permit to be changed will only be deemed significant if the EA determines that there is a need to condition or limit the new activity in order to protect public health, safety, the environment, or ensure compliance with state standards. The Board considered comments received during the 60-day and 15-day comment periods, and Board staff's analysis in making its decision at its October 17, 2006 meeting to approve retaining the significant change list. The intent of the list is to identify a list of changes in the design or operation of a solid waste facility that would always be considered significant and always require a permit revision. For all other changes in the design or operation of a facility proposed by the operator that do not qualify as a minor change, the EA will use the decision tree in Section 21665 to determine if the proposed change can be approved through an RFI amendment, modified permit, or revised permit.
21570(a) and (b)	60-21	Although the Department concurs that review by the EA does not include verifying accuracy of land-use information, it is outside the scope and authority of the CIWMB to require Operators to submit a copy of the permit application to local planning agency. Land use planning and approvals are a local agency issue, not a CIWMB issue. Ensuring that a local planning department is aware that the Operator has proposed a new facility or changes to an existing facility is a consistency issue to be taken up by the local land use authority. The Department believes this is outside of the scope and intent of AB 1497.	The reason for retaining in the proposed regulations the requirement that the operator send a copy of the permit application to the local planning department is so the planning department is aware of the proposal and can take appropriate action as necessary. The proposed regulations are designed to address various permit-related issues and clarify existing regulations that were mandated by the Legislature, directed by the Board, or identified at workshops with stakeholders. This includes AB 1497 requirements as well as other permit-related issues.
21570(a) and (b)	60-28	In some cases, such as Gregory Canyon Landfill, land use authority was displaced as a result of a voter initiative. For facilities located at MCAS Miramar, there is no local land use authority; instead the facility is subject to a federal land use authority. The land use authority, when there is one, requires applicants to submit whatever information it deems appropriate. The CIWMB should not require that their permits applications be sent to the land use authority. The underlined language in section 21570 (a) and section 18105.2, subsection (i) should be deleted.	The intent of this requirement is to provide an avenue for the jurisdiction that has authority over land use to be aware of a proposed new facility or changes proposed at an existing facility within its jurisdiction. In most cases, this is at the local government level. Where land use oversight rests with another jurisdiction, such as the federal government, the intent is that the application form be sent to the appropriate federal agency. The local government or federal agency could then take action, if it so chooses, if a facility proposed to operate as described in the solid waste facilities permit application would be inconsistent with local land use

		Notwithstanding the above, the following would be more flexible: "and one copy of the application form to the agency that oversees land use planning where the facility is located, when there is one." In section 21570 subsection f(5)A, section 21685, subsection b(4), and section 18105.1, subsection g(1), the words "or applicable planning document, when there is one" should be added.	entitlements or other land use regulations. Comments related to conformance finding information are outside the scope of these regulations.
21570(b)	60-28	Please see commenter 60-28 comment regarding Section 21563(d)(4).	Please see response to commenter 60-28 regarding Section 21563(d)(4).
21570(f)(5)(A)	60-28	Please see commenter 60-28 comment regarding Section 21570(a) and (b).	Please see response to commenter 60-28 regarding Section 21570(a) and (b).
21570(f)(9)	60-13 60-25	<u>*Specific Request*</u> – Expand the subsection to read as follows: "A copy of all land use entitlements for the facility (e.g. conditional use permits, zoning ordinance, etc.), and a letter issued by the host jurisdiction's planning agency or commission verifying that the proposed permit activity is consistent with the land use entitlements for the facility;" <u>*Discussion*</u> – The above language will help address our concern expressed in item 1 above. *(Under section 21563(d)(2))*	Please see response to commenters 60-13 and 60-25 regarding Section 21563(d)(2).
21570(f)(9)	60-26	The intent of Assembly Bill 1497 is to improve the *"conditions for communities with solid waste facilities located in their neighborhoods and ensure adequate consideration is given to environmental justice issues."* If the proposed text is adopted, it would undermine the intent of AB 1497 since it would prohibit the CIWMB-approved local enforcement agencies from verifying that the information contained in the SWFP application is consistent with the local land use permit. Expand the subsection to read as follows: *"A copy of all land use entitlements for the facility (e.g., conditional use permits, zoning ordinance, etc), and a letter issued by the host jurisdiction's planning agency or commission verifying that the proposed permit activity is consistent with the land use entitlements for the facility;"*	Please see response to commenters 60-13 and 60-25 regarding Section 21563(d)(2).
21570(f)(9)	60-04 60-27	Please see commenters 60-04 and 60-27 comments regarding Section 21563(d)(2).	Please see response to commenters 60-13 and 60-25 regarding Section 21563(d)(2).
21570(f)(11)	60-03	Suggest the following language to provide clarity on types of hearings, meetings and notices needed (additions in **bold**). In addition, it is important to include public meetings because there is often outreach efforts conducted with community groups and interested groups that should be acknowledged: (12) List of all ***public*** hearings, ***meetings*** held and/or notices distributed that are applicable to the proposed solid waste facilities permit action.	Sections 21570(f)(11) [formally 21570(f)(12)in the 60-day regulations], 18104.1(h), and 18105.1(j) were edited to clarify that the meetings to be listed are those that were "open to the public," so the requirement now reads: "List of all public hearings and <u>other</u> meetings <u>open to the public that have been</u> held or <u>copies of</u> notices distributed that are applicable to the proposed solid waste facilities permit action."
21570(f)(11)	60-21	The Department believes that sufficient public resources exist for any regulatory body and the general public to determine the level to which a facility has performed public notices and meetings. It is not necessary to require Operators to include a list of all public notices and meetings conducted relative to changes requested for new, modified or revised permit application packages.	Requiring the operator to submit a list of all public notices and meeting conducted relative to the changes being requested in the application strengthens the reporting of this information to the Board and the furthering of EJ in the consideration of permit actions. This is necessary to be consistent with the intent of AB 1497, which requires that EJ concerns be considered in developing the regulations and implementing new public noticing and hearing requirements for permit revisions. It also adheres with Cal-EPA's Intra-Agency Environmental Justice Strategy's goals:

			1) ensure meaningful public participation and promote community capacity-building to allow communities to effectively participate in environmental decision-making processes, and 2) Integrate environmental justice into the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies. Board agenda items for new and revised permit actions currently include a description of the level of community outreach used for purposes of addressing EJ as it relates to permit actions being considered by the Board. The information is received from EAs who often depend on operators for details.
21580	60-03	The proposed regulations should provide procedures for when an applicant utilizes their right under Public Resources Code 44009, waiver of statutory timelines, after a LEA accepts an application as complete and correct. This is especially important with regards to the requirement for an LEA to conduct a public meeting within 60 days of receipt of an application.	The EA will need to hold an informational meeting within 60 days of receiving the application and within 30 days of finding the application package complete and correct, unless it was received as incomplete. Section 21580 provides the process for handling incomplete application packages, including the requirement that the EA notice and conduct an informational meeting within 30 days after deeming a previously submitted incomplete application package as complete and correct. This point is clarified in Section 21650(f), which was edited to clarify that Section 21580 is not only the section for processing the applicant's waiver of timeframes, it is also the section on timing for noticing and holding an informational meeting after the EA deems a previously submitted incomplete package to be complete and correct.
21580	60-23	Inclusion of an application for a revised SWFP in the added statement, "For an application for a new or revised solid waste facilities permit, within 30 days after deeming the application complete, the EA shall notice and conduct an informational meeting as required by §§21660.2 and 21660.3.", appears to be inconsistent with Section 44008 of the Public Resources Code (PRC), which was cited earlier in this section. Section 44008 specifies that a decision to issue or not issue the SWFP shall be made within 120 days from the date that the application is deemed complete. This is consistent with the issuance or non-issuance of a new SWFP. However, Section 44004 of the PRC requires an application for revision of a SWFP be submitted at least 180 days in advance of the date the proposed modification is to take place. Allowing 30 days to review the application for revision of a SWFP, this means the determination to issue or not issue the revised SWFP may be made within up to 150 days from the date that the application is deemed complete. Therefore, the waiving of the statutory time limit in Section 44008 does not apply to the acceptance of an incomplete application to revise a SWFP. [Note: The SWMP was informed by the CIWMB that Section 21580 did not apply to applications for permit review. Although this is not part of the proposed permitting implementation regulations, the SWMP would appreciate if the CIWMB would consider revising this section at this time to specify the type of permit actions for which an incomplete application may be submitted.]	Please see response to commenter 60-03 regarding Section 21580. PRC Section 44004 does not change the requirement in PRC Section 44008 that the EA decide to issue or not to issue a permit within 120 days of deeming the application package complete and correct, unless waived by the applicant. The proposed regulations clarify the timeframes in the Government Code, PRC Sections 44004, 44008, and 44009, while remaining consistent with statutory timeframes.
21620 header	60-03	Revise header to be consistent with language in this section as it does apply to changes in design as well as operations. Also, this allows for easier location in the Table of Contents:	The header for Section 21620 was edited and now reads: "§21620. CIWMB – Change in Design or Operation. (new)."

		§21620. CIWMB – Change in ***Design or*** Operation. (new)	
21620 header	60-14	In light of the arguments presented above *(under section 21563(d)(6))* Section 21620 should apply to the operators of *permitted* solid waste facilities proposing to make *physical* changes to the design and operation of a permitted facility. Therefore, please amend the heading to read "Section 21650. CIWMB – Physical Change in Design and Operation of a Permitted Solid Waste Facility. (new)."	Please see response to commenter 60-14 regarding Section 21563(d)(6) and response to commenter 60-03 regarding Section 21620 header.
21620	60-24	It appears that these draft regulations are providing an additional notification process whereby a proposed change would be evaluated before the applicant would formally submit the change in the form of an RFI amendment, permit modification, or permit revision. This process currently takes place on an informal basis, but it may be helpful to delineate a written process for the instances where a paper trail is desirable.	The proposed regulations establish a minor change process that allows an operator to make a minor change in the design or operation of a facility without EA review, approval or prior notice if the change meets specified criteria, the operator notifies the EA as required, and the change is on the minor change list, or if not listed, meets the criteria. These changes, whether listed or not, such that EA review and approval is not needed prior to the operator making the change. Board staff are aware that "minor" changes are made currently without LEA review and approval, the regulations recognized this activity and provide a consistent process for it to continue to occur. The operator is required to notify the EA of the change within 30 days of making the change. If the EA finds the change does not meet the criteria, the EA is required to provide a written finding to the operator explaining why the change did not qualify as a minor change and to require the operator to comply with all applicable requirements. This could include the EA using the decision tree in Section 21665 to determine that the change requires an amendment to the RFI, a modified permit, or a revised permit.
21620(a)	60-08	In section 21620(a) the reference intended in the first parenthetical is unclear (which term is being defined by reference to what?), and may be inappropriate.	The parenthetical references were edited and the section now reads: "This section applies to any operator proposing to make a change in the design (as defined in subsection 21663(a)(1)) or operation (as defined in subsection 21663(a)(2)) of the facility,…"
21620(a)	60-16	Suggested Alternative Language for §21620. CIWMB – Change in Operation, page 5, line 30. (a) ~~Any applicant~~ This section applies to any operator proposing to make a ~~significant~~ change in the design or operation (as defined in ~~subdivision~~ **subsection** 21663(a)) of the facility, where such change is subject to the authority of the EA acting pursuant to the……. that the solid waste facilities permit requires revision pursuant to §21665(e) or §21620**(a)**(4), in which case the operator shall comply with §21620**(a)**(4).	Section 21620(a) was edited as suggested.
21620(a)(1)	60-13 60-25	*Specific Request* We concur with the Minor Change List as proposed in Alternative 1. *Discussion* – By adopting Alternative 1, it will help address our concerns expressed in item 1 above *(under section 21563(d)(2))*, streamline the permitting processes for minor changes in the design/operations of the facility, all the while retaining the ability for decision makers and residents most impacted by the proposed permit activity to have a say in adopting reasonable, site-specific control measures.	The Board considered comments received during the 60-day and 15-day comment periods, and Board staff's analysis in making its decision at its October 17, 2006 meeting to approve retaining the minor change list. The minor change list (identified in the 60-day proposed regulations as "Alternative 1 Minor Change List" and "Alternative 2 Optional Minor Change List") was incorporated into the proposed regulations under Section 21620(a)(1)(E) [formally 21620(a)(1)(D) in the 60-day regulations]. Changes (i) through (viii), identified as the Alternative 1 list, were edited to provide clarity and correct redundancy to the following changes:

			(iii) Changes in contact information that does not include a change of the owner or operator was clarified by adding "mailing address" as a possible minor change. (vii) "Changes in tanks used for storage of materials" was clarified by adding that the materials are "utilized as part of the operation of the facility such as fuel, motor oil, and water." Redundancy was removed by deleting that the change is "consistent with existing design and operation," since Section 21620(a)(1)(D) requires that a minor change cannot "conflict with the design and operation of the facility as provided in the current RFI."
21620(a)(1)	60-19 PH-03	With this in mind, the CRRC supports the following elements of the proposed regulations: o The "Nonmaterial change " lists as defined in Alternative 2. <u>Public Hearing Comment</u> And in our workshops, we spent a significant amount of time on the minor changes. And I think, you know, it maybe was a lot of time spent on minutia per se. But as Chuck Helget just said, those things from an operator's point of view can really take up your time. So I thought even though it's a minor change, it's an important time and money issue for operators. And for that reason, we'd like to support Alternative 2 which is as inclusive as possible, but with the addition of some kind of language that Chuck White alluded to and maybe others will that gives flexibility to the LEA to include other issues that again we haven't thought of. So I think something along those lines is what we would like to see there.	The Board considered comments received during the 60-day and 15-day comment periods, and Board staff's analysis in making its decision at its October 17, 2006 meeting to approve retaining the minor change list. The minor change list (identified in the 60-day proposed regulations as "Alternative 1 Minor Change List" and "Alternative 2 Optional Minor Change List") was incorporated into the proposed regulations under Section 21620(a)(1)(E) [formally 21620(a)(1)(D) in the 60-day regulations]. Section 21620(a)(1)(E) was edited to allow operators to make changes without EA review, approval or prior notice that include, but are not limited to, those listed and that meet criteria specified in Section 21620(a)(1). These changes, whether listed or not, are supposed to be so minor that EA review and approval is not needed prior to the operator making the change. The operator is required to notify the EA of the change within 30 days of making the change. If the EA finds the change does not meet the criteria, the EA is required to provide a written finding to the operator explaining why the change did not qualify as a minor change and to require the operator to comply with all applicable requirements. This could include the EA using the decision tree in Section 21665 to determine that the change requires an amendment to the RFI, a modified permit, or a revised permit. Changes (ix) through (xxii), identified as the Alternative 2 list, were edited to provide clarity and correct redundancy to the following changes: (x) "Updated changes to other regulatory agency documents that are included by reference in a RFI only" was edited to remove redundancy by deleting that the change "will not result in an change to the design and/or operation that are within the LEA's authority," since Section 21620(a)(1)(D) requires that a minor change cannot "conflict with the design and operation of the facility as provided in the current RFI." (xi)) "Updated changes to other regulatory agency documents that are included by reference in a RFI only" was deleted since it is duplicative of change (x). (xii) "Changes in containers used for temporary storage of materials" was clarified by adding that the materials are "separated for recycling." Redundancy was removed by deleting that the change "does not interfere with the design and operation of the facility," since Section 21620(a)(1)(D) requires that a minor change cannot "conflict with the design and operation of the facility as provided in the current RFI." (v) "Change in name only of owner/operator" was deleted since it is duplicative of existing regulation, Section 21630.

			(xiii) "Change to facility signage wording" was edited to remove redundancy by deleting that the change is "consistent with State minimum standards," since Section 21620(a)(1)(B) requires that a minor change be "consistent with State minimum standards." (xiv) "Changes to improve personnel protective equipment and other safety procedures" was edited to remove redundancy by deleting that the change "needs to be consistent with OSHA," since Section 21620(a)(1)(B) requires that a minor change be "consistent with State minimum standards." (xv) "Changes to traffic patterns on site that do not affect off-site traffic" was clarified by adding that "and/or adjacent properties" could not be affected as well. (xii) "Change in designated enforcement agency" was deleted since it is duplicative of existing regulation, Section 18050 et seq. (xix) "Changes to equipment maintenance operations associated with the operation of the facility" was edited to remove redundancy by deleting that the change will not change the design and operation of the facility," since Section 21620(a)(1)(D) requires that a minor change cannot "conflict with the design and operation of the facility as provided in the current RFI." (xxi) "Purchase of property adjacent to the facility if not used for solid waste operations" was clarified by replacing "purchase" with "acquisition " and "operations" with "activities." "Acquisition" is a more appropriate term since adjacent property can also be acquired through gifts and deeds, and "activities" is a better term since it is more inclusive.
21620(a)(1)	60-09 PH-01 PH-02	We strongly support "Alternative 2" that provides a more extensive list of "minor changes". We have reviewed both the Alternative 1 and Alternative 2 lists of proposed "minor changes" and believe that both lists should be used to define the nature and extent of allowable "minor changes". We cannot see how any of the proposed minor changes would require any type of review and approval by the LEA before the change is made. However, the regulations clearly provide that the facility operator must notify the LEA within 10 days after making the "minor change". If the LEA has reason to believe the change was not a minor change, the proposed regulations still provide a mechanism for the LEA to question whether a change is truly minor – and require the operator to fully comply with all applicable monitoring requirements. This "safety-net" provision should provide comfort that a broad inclusive list of "minor changes" is most appropriate. However, we remain concerned that there may be additional minor changes that could be made at a solid waste facility without having to trigger a permit action or review by the LEA. We are concerned that even the broader list of minor changes under Alternative 2 will not cover all potential minor changes. To address this concern, we request that additional language be added to allow LEAs to include additional minor changes – with advance written approval – to the minor change list for a particular facility. We believe that the LEA should be provided with broader latitude and discretion under the regulations to allow other	Please see response to commenters 60-13 and 60-25 and commenter 60-19/PH-03 regarding Section 21620(a)(1).

types of minor changes in addition to those specifically listed in the regulations. For example, we suggest that the following change be made to line 7 on page 6 of the proposed regulations:

(D) the minor change is listed below, or, if not specifically listed, the EA makes a written determination in advance of the change that the minor change is consistent with the nature and scope of the minor changes listed below:

Public Hearing Comment

PH-01: And I think it's fair to say that Waste Management and Allied Waste would like to have as broad an inclusion of those types of things that are considered to be minor. And we certainly would prefer Option 2 of the two that are presented, because we think for the most part – and there was I think a majority consensus in our working group if not 100 percent consensus that the majority of all of those items that are listed on Options 1 and 2 do really pass the threshold of being a very minor change. However, our concern is also that there may be other types of changes that we really didn't think about. I guess there is a list of about 35 or 36 changes. What about the 36th or 37th we didn't think to include?

So we're suggesting that there be some additional language that's added to line 7 on page 6, at least of the copy I have. I don't know if it's on the one you're handing out today. It's the provision that says that a minor change has to be listed below. And we're suggesting adding the language the minor change is listed below. Or if not specifically listed, the EA makes a written determination in advance of a change that the minor change is consistent with the nature and scope of the minor changes listed below.

This would give the EA the opportunity to be able to make a determination that some other change that's not listed is within the scope of those changes. It wouldn't allow the operator to go ahead and make those changes, but it would allow him or her to work with the EA to obtain some kind of written consent in advance that the nature of the change is of sufficiently minor scope to allow it to proceed without involving the whole various permitting tiers that the rest of the regulations envision.

PH-02: Clearly, the other end of the spectrum, the upper end of the spectrum, what is significant, what is a major change to a facility is certainly the most important part of these regulations. But from an operator's perspective, having to deal with the administerial changes in an RFI and the administerial changes that are associated with that can be a very frustrating process, time consuming, and takes them a way oftentimes from the things they really should be focusing on.

So from that perspective, we would strongly urge consideration of the two parts to the list that's being proposed and serious consideration of the language that was proposed, because we do believe the LEAs need to have some flexibility in making those determinations. And we think – we hope that language provides that flexibility and it provides some surety for the operators that there are certain administerial functions that aren't going to trigger major changes or major amounts of paperwork to amend an RFI.

PH-01: I just want to add one further clarifying comment related to minor changes.

		As we indicated in the letter from Allied and Waste Management encourages you to have as broad a list of minor changes in the regulations. This will give comfort to the regulated community that these things are, in fact, minor and aren't subject to the permitting process. But of course at the other end of the spectrum, do we really have everything listed, and that's the another provision that we suggest should be added, that EAs do have the discretion to consider other things that might not be specific on the list but through some kind of process of advanced written approval to the operator that they consider it to be similar and minor in nature. So I really wanted to clarify those comments to make – we want to give board latitude, but we sure like a broad list to give us some comfort that we can go ahead and make our changes without triggering a permitting process.	
21620(a)(1)	60-16	In general, IWMD supports the Alternative 2 Optional Minor Change List to supplement the Alternative 1 Minor Change List. Where applicable, we have provided comments and suggested language changes. In addition, we suggest that language be added that would allow an EA and the operator to develop a minor change list based on local conditions. The minor change list would be executed by a memorandum of understanding or Stipulated Agreement.	Please see response to commenters 60-13 and 60-25 and commenter 60-19/PH-03 regarding Section 21620(a)(1).
21620(a)(1)	60-18 PH-10	The ESJPA supports the broadest possible latitude in what change constitutes a Minor Change including the items listed in Alternative 1 and Alternative 2 and allowing Enforcement Agency's discretion to go beyond these lists. Declaring a complete, comprehensive list of minor changes is not feasible given the minor changes occurring at facilities on almost a daily basis. Since completely listing all possible minor changes in regulation is impossible, the regulations should also allow for Enforcement Agency discretion for other minor changes that will likely occur in the future. This flexibility is essential to smooth operation of solid waste facilities. The ESJPA supports inclusion of both Minor Change Lists in the proposed regulatory package along with an allowance for Enforcement Agency discretion for including other activities as minor changes. Minor operational and documentation changes occur on a regular basis – personnel changes, new trainings are conducted, equipment is fixed or replaced. As stated in Section 21620 (a), a change (any change) not allowed as a minor change will need to undergo at least a RFI Amendment requiring noticing and approvals. State minimum standards and operational requirements define the standards that must be met. If the methods for compliance are changed, the question should be whether the standards are satisfied. As demonstrated by the working group, there are many changes that are insignificant that prior approval is not required. This Minor change list should not be limited to a finite list. If a minor change results in a violation, then the Enforcement Agency will inform the operator of this violation. Most operators prefer this approach to requesting approval on every insignificant change. Some examples of why certain items should remain as minor changes are listed below.	Please see response to commenters 60-13 and 60-25 and commenter 60-19/PH-03 regarding Section 21620(a)(1).

		Typographical changes, changes in procedures, changes in back-up equipment sources, updated reference documents, changes in surrounding land uses, and maintenance procedure changes all are examples of paper changes with no material impact on the design or operation of the facility. Training plans and personal equipment change as necessary. New or revised regulations prompt some of these changes. Tailgate trainings to immediately address a work situation should not have to wait pending an approval simply because it was not in the RFI training plan. Equipment breaks or wears out. There is a need to replace that equipment quickly. Replacement with similar capabilities should not be delayed until approvals are received. It is inconsistent that a (iv) change in containers used for storage of materials in the Minor Change List Alternative 2 but (vii) changes in tanks is listed in Alternative 1. Both of these items should be allowed on the Minor Change List Changes outside the operators control should remain as minor changes. These include: background information outside the permitted boundary including change in land use unrelated to the facility, changes in enforcement agency, and regulation renumbering. If a Minor Change list is not included in the regulations, then a list should be provided in an advisory as examples. <u>Public Hearing Comment</u> On the list, we do support having more discretion on that list. I mean, we can be only so creative in the time we had. I can continue to think of more changes that could be on a list of things that would be significant if we do keep the list in there, including a couple that I had mentioned at one of the original workshops. And now that the old Chair of the Board is not here, for the benefit of the new members I can mention them, was one example is if we change the color of our vehicles, that could be a change. If we're looking at any change being triggering some sort of a permit change, that one seemed too ludicrous to be on the list. I'm not sure where it would fall under this new methodology. The other one is if we have to move a porta-potty from one side of the road to another or another location, that's a physical change. So those are ones – the kinds of things that we can continue to come up with a never-ending list. So if we only have a limited list, I think that works to the detriment of everyone. And I think most operators are willing to have some criteria for things to be a minor change and we're willing to risk violations or areas of concern if it turns out later that it isn't for some of these things that are so minor. But by all means, we want to work with the LEAs as much as we can, but there's some things we feel are so minor we need to have that ability to make the changes and notify either after the fact or during as mentioned in the proposed regs.	
21620(a)(1)	60-14	The activities listed as "Minor Changes" in Section 21620(a)(1) are almost entirely	Please see response to commenter 60-14 regarding Section 21563(d)(6) and

		non material, non physical changes, and not changes "in design or operation (as defined in subdivision 21663(a))" as stated in Section 21620(a). As defined by Section 21663(a)(1) and (2), "design" means the physical layout of the facility and "operation" means the procedures, personnel, and equipment utilized to receive, handle and dispose of solid wastes and to control the effects of the facility on the environment. Accordingly, the Minor Changes list applies to changes to design or operation of a facility resulting in changes in the physical layout, in the physical procedures, personnel or equipment used on-site. The following items on the Minor Changes list do not represent changes in the "design" or "operation" of a facility. To clarify this point emphasis (italics) has been added to the following "minor changes" to highlight how these are <u>not</u> changes *in* the <u>design</u> or <u>operation</u> and should not be included in Section 21620. (i) Correction of *typographical* errors in any documents/documentation (iii) Changes in any *name and phone number or other contact information* that does not include a change of the owner or operator. (i) Replacement of an existing environmental or operational monitoring point that has been damaged or rendered inoperable, *without change to location or design* of the monitoring point. (ii) Updated changes to other regulatory agency documents that are included by reference in a RFI only and *will not result in a change to the design and/or operation that are within the LEA's authority.* (iii) Updated changes to other regulatory agency documents that are included by reference in a RFI only and *will not result in a change to the design and/or operation*. (iv) Changes in containers used for storage of materials *that does not interfere with the design and operation* of the facility. (v) Change in *name only* of owner/operator. (vi) Change in *narrative information* (e.g., background information) outside the permitted boundary. (vii) Change to *facility signage wording* consistent with State minimum standards. (x) Adjacent land use *map.* (xii) Change in *designated* enforcement agency. (xiii) Changes in *name, address, or phone number* of contact in post-closure	response to commenter 60-03 regarding Section 21620 header. Minor changes are changes proposed by an operator in the design or operation of a facility that can be physical or not, and must meet the following criteria, as specified in Section 21620(a)(1): (A) The change must be subject to the authority of the EA acting pursuant to the Integrated Waste Management Act; (B) The change must be consistent with State minimum standards; (C) The change must be consistent with the terms and conditions in the current permit; and (D) The change cannot conflict with the design and operation of the facility as provided in the current RFI. These changes, whether listed or not, are supposed to be so minor that EA review and approval is not needed prior to the operator making the change. The operator is required to notify the EA of the change within 30 days of making the change. If the EA finds the change is not minor, the EA is required to provide a written finding to the operator explaining why the change did not qualify as a minor change and to require the operator to comply with all applicable requirements. This could include the EA finding that the change requires an amendment to the RFI, a modified permit, or a revised permit. Please see response to commenters 60-13 and 60-25 and commenter 60-19/PH-03 regarding Section 21620(a)(1) to see how the minor change list was edited to provide clarity and correct redundancy.

		plan. (xiv) Changes to equipment maintenance operations associated with the operation of the facility that *will not change design or operation.* (xv) Purchase of *property adjacent to the facility* if not used for solid waste operations. (xvi) Updated changes to *documents* that are included by reference in a permit or RFI. (xvii) Regulation *re-numbering* as referenced in RFI. In contrast, Item (ix), "changes to traffic patterns on site that do not affect off-site traffic" describes a physical change. Section 21620, as written, applies only to design and operational changes; "non material" changes, which are not changes in the design and operation of the permitted facility, should be removed from the Minor Changes list.	
21620(a)(1)	60-20	Enforcement agencies should have discretion regarding the level of change rather than relying only on a list that can not include all possible situations. This discretion should apply to both minor changes and significant changes. Enforcement agency discretion is necessary since regulations cannot consider every possible situation for all facilities. Flexibility will allow sufficient ability to cover the range of circumstances. The proposed decision tree provides that assurance. The proposed Minor Change lists in Alternative 1 and Alternative 2 can serve as examples of the types of issues that require minimal approval. These changes do not materially affect the design or operation of the facility. In addition, changes outside the control of the operator should be considered minor changes.	The Board considered comments received during the 60-day and 15-day comment periods, and Board staff's analysis in making its decision at its October 17, 2006 meeting to approve retaining the minor change list. The minor change list (identified in the 60-day proposed regulations as "Alternative 1 Minor Change List" and "Alternative 2 Optional Minor Change List") was incorporated into the proposed regulations under Section 21620(a)(1)(E). The intent of the minor change list is to allow operators to make minor changes without EA review, approval or prior notice that include, but are not limited to, those listed and that meet criteria specified in Section 21620(a)(1). These changes, whether listed or not, are supposed to be so minor that EA review and approval is not needed prior to the operator making the change. The listed changes were recognized during the informal rulemaking process as acceptable changes for the minor change list. The operator is required to notify the EA of the change within 30 days of making the change. If the EA finds the change does not meet the criteria, the EA is required to provide a written finding to the operator explaining why the change did not qualify as a minor change and to require the operator to comply with all applicable requirements. This could include the EA using the decision tree in Section 21665 to determine that the change requires an amendment to the RFI, a modified permit, or a revised permit. The idea of operators giving EAs a heads-up about potential upcoming changes is good and will be promoted in planned EA guidance and training. Please see response to commenters 60-13 and 60-25 and commenter 60-19/PH-03 regarding Section 21620(a)(1) to see how the minor change list was edited to provide clarity and correct redundancy.
21620(a)(1)	60-03	The LEA strongly prefers the decision tree approach over the List approach for determining the significance of a proposed change. However, <u>if</u> the regulations are to include a Minor Change List as given in Section 2160 (Alternative Minor Lists 1	Please see response to commenter 60-20 regarding Section 21620(a)(1). The changes (vi), (ix), (x), (xi), and (xvi), identified in the 60-day proposed

		and 2), the LEA could support all of List 1 and selected items on List 2 (see following) provided that Section 21620.(a)(1)(E) remains in its entirety. The Minor Change List would provide a simple mechanism for basic information/editing updates by the operator without the burden of filling out the solid waste facilities permit application form. However, Section 21620.(a)(1)(E)(iii) is important to retain because it provides a mechanism for an LEA to essentially override the Minor Change List (after the fact) if a problem develops and thus retains LEA discretion and use of professional judgement given a site-specific issue. With respect to Alternative List 2, the LEA can support all of the items listed except vi, ix, x, xi, and xvi.	regulations as changes in the Alternative 2 list, were renumbered to (xii), (xv), (xvi), (xvii), and (xxi). These changes were recognized during the informal rulemaking process as acceptable changes for the minor change list. In addition to the list of changes, Section 21620(a)(1)(E) was edited to allow operators to make changes without EA review, approval or prior notice that include, but are not limited to, those listed and that meet criteria specified in Section 21620(a)(1). These changes, whether listed or not, are supposed to be so minor that EA review and approval is not needed prior to the operator making the change. The operator is required pursuant to Section 21620(a)(1)(F) [formally 21620(a)(1)(E) in the 60-day regulations] to notify the EA of the change within 30 days of making the change. If the EA finds the change does not meet the criteria, the EA is required to provide a written finding to the operator explaining why the change did not qualify as a minor change and to require the operator to comply with all applicable requirements. This could include the EA using the decision tree in Section 21665 to determine that the change requires an amendment to the RFI, a modified permit, or a revised permit. The idea of operators giving EAs a heads-up about potential upcoming changes is good and will be promoted in planned EA guidance and training. Please see response to commenters 60-13 and 60-25 and commenter 60-19/PH-03 regarding Section 21620(a)(1) to see how the minor change list was edited to provide clarity and correct redundancy.
21620(a)(1)	PH-05	In general, I think the issue that we'd like to see is to retain the LEA discretion. But if the Board were to feel compelled to come up with some sort of list, we'd like to see an LEA override. And really what that means is that you can have your list, but if there's an extenuating circumstance, if there's a really important reason that maybe we don't see up front – say there's a Water Board issue or an Air Board issue or something else that doesn't look that apparent and the LEA notices it, then they can say, "Yes, you're on the list, but." So there's an override. There's a compelling reason to take it off the list or put it on the list. And we do that with several other programs, particularly in the Toxics Program. And it works well. It's like ratcheting someone up or down one of the tiering when you have to tier them in the permit. So that's really our strongest comment is that it will be difficult for the Board to decide whether it's a 10 percent or 5 percent, whether to have the list or not. I know the LEAs are going to appeal not to have these lists or certainly not to have a significant list. But I would urge the Board and the staff to consider this sort of override.	Please see response to commenter 60-20 regarding Section 21620(a)(1).
21620(a)(1)	60-29	Lastly, Section 21020 (1) of the latest draft of the proposed rules is overly burdensome on the small operator. The subject section, commonly known as "the list", itemizes 25 very minor changes that, if made, require the operator to notify the LEA/EA in writing. For example, at our facility I am the person who will be required to inform the LEA or EA of minor changes required by the current draft of the rules. While I have a problem with informing the LEA or EA of just about everything on the list (except verbally during the normal monthly inspection), the ones I have singled out as epitomizing State-level micro-management of solid waste	Please see response to commenter 60-20 regarding Section 21620(a)(1).

		facilities are the following: purchase new equipment (even if it is like for like), relocation of portable fuel tanks, a change in back-up rental equipment providers, land use changes on **adjacent** properties, changes in sign wording, **improvements** in protective equipment, changes in traffic patterns **that do not affect traffic**, and equipment maintenance changes. Somehow I'm supposed to find the time to inform the EA of all of things listed in Section 21020 (1) (many of which happen every week or every day), manage two facilities located 55 miles apart, perform RWQCB Waste Discharge Order compliance, conduct meetings for my Board of Directors, re-permit the facilities every 5 years and expansions when required, manage 15 employees, manage payables and receivables of 4.8 million dollars per year, manage new liner projects, and manage a 1 million dollar closure fund. While a large municipal or nation-wide operator may have 10 or more people performing these tasks, small operators typically have one person. Thus the passage of the proposed rules implementing AB 1497 is disproportionately burdensome on the small operator. What needs to be done is to eliminate all of the things I have mentioned above from Section 21620(1), or to make the notice a monthly occurrence conducted verbally during the LEA/EA inspection. If you talk to the EA/LEA Staff and the operators individually they will tell you that there is not the unanimity that the staff report purports on the issue.	
21620(a)(1)	60-02	Additionally, the majority of those attending the meeting were not in support of the Alternative Minor Change Lists 1 and 2 and Alternative 3 Significant Change list proposed in §21620. The primary concern raised at the Roundtables regarding the three C*hange in Operation lists*, as proposed in the draft regulations, was that they would limit an LEA's discretion and possibly lock operators into a position that would limit their permitting options. Of the three Lists, those attending the meeting would support Alternative Minor Change List 1, if necessary. However, there was little support for the Alternative 3 Significant Change list.	Please see response to commenter 60-20 regarding Section 21620(a)(1).
21620(a)(1)	60-28	Regulations cannot anticipate every situation and cannot predetermine the significance of what an inspector may find. The EAs need regulations that are strong, but flexible enough to cover a broad array of circumstances. The decision tree approach of Title 22, California Code of Regulations section 21665 provides EAs with an opportunity to consider the specific circumstances of a facility. While acknowledging the great effort that went into providing a reasonable list, the "decision tree" approach fulfills the goals of ESD better than the "list" approach. If there must be a list, in section 21620, subsection a(1)D, the most appropriate delegation of discretion to EAs would be provided with Alternative 2. Within this alternative, however, there is no existing requirement to change permits because of a change made in the structure of the regulatory agency. Therefore xii is not needed and should be deleted. In subsection a(4), EAs should be given discretion to make judgment calls about the severity and importance of issues. Agency staff should be allowed to waive cumbersome procedures if they can make a determination that there would be no negative impacts to the environment or to public heath and safety. This is analogous to the "common sense" exemption under CEQA.	Please see response to commenter 60-20 regarding Section 21620(a)(1). Change (xii), identified in the 60-day proposed regulations as a change in the Alternative 2 list, was deleted in Section 21620(a)(1)(E) [formally 21620(a)(1)(D) in the 60-day regulations] since it is duplicative of existing regulation, Section 18050 et seq.
21620(a)(1)	60-01	Not support the Alternative 1 Minor Change, Alternative 2 Optional Minor Change	Please see response to commenter 60-20 regarding Section 21620(a)(1).

	PH-07	or Alternative 3 Significant Change lists as criteria that must be met to implement a change or revise a permit without LEA/EA review or approval [Title 14, Section 21620(a)(1)(4)]. The proposed lists attempt to identify items that would be considered non-significant or significant but would be problematic in keeping the review and approval a discretionary action. The proposed items in the list could be construed as significant or non-significant depending on the type of operation or facility, existing language in a facility's supporting documentation, or an urban vs. rural environment, etc. If the lists were "all-inclusive", any and all proposed non-significant change items would have to be consistent throughout the state with no question of discretion. This does not appear to be possible. Another problematic aspect to the lists is that they can not be all-inclusive in which there will always be another item that should/could be on the list but is not. Each proposed change must be treated on its own merit and the LEA would most likely be challenged as to why a particular proposed change would not be considered the same as the "approved list". Thus, any approved list can not be all-inclusive. The initial working group, in reviewing *significant change*, examined the current permitting structure, a previous 1986 report on Significant Change by a CIWMB Advisory Committee, as well as other available materials to determine that *lists* would not serve stakeholders in addressing the limitless variety of circumstances that could constitute changes at solid waste facilities. <u>Public Hearing Comment</u> We agree with what Greg Pirie said from the Bay Area roundtable. And couple of the other issues. And also to dovetail on what Justin said a little bit. There is a proposed regulation in regards to the two minor lists that would allow the LEAs to override a minor change that happened. You know, perhaps after going out in the field after receiving the minor notice, they could go out and require an application if they determined there was something more going on than the minor change. So but however, our preference would be not to have a list, to have more open discretion, and then to maintain the local discretion that was discussed earlier. But we would want that – if the list were to be included, we would want to make sure that the Section 21620(a)(1)(E)(iii) stayed intact in its current language.	
21620(a)(1)	60-22	The LEA does not support the Alternative 1 Minor Change, Alternative 2 Optional Minor Change or Alternative 3 Significant Change lists as criteria that must be met to implement a change or revise a permit without LEA review or approval.	Please see response to commenter 60-20 regarding Section 21620(a)(1).
21620(a)(1)	60-11	We believe that the intent of AB 1497, as chaptered, was to allow for greater review, noticing, and public participation for those proposed permit changes considered "significant." The proposed regulations unduly focus on the insignificant minor changes and eliminate virtually all-discretionary authority from the enforcement agencies (EAs) for determining what constitutes a minor change. By prescribing or imposing a fixed list of minor changes, the EA is not allowed to exercise any discretion on classifying a proposed insignificant facility change as minor. The EA has no choice but to process insignificant changes not shown on the minor change list as a Report of Facility Information (RFI) amendment. We suggest eliminating Subsection 21620(a)(1)(D), which refers to the minor change	Please see response to commenter 60-20 regarding Section 21620(a)(1).

		list, and allow the EA to exercise judgment on classifying a change as minor as long as criteria Section 21620(a)(1)(A)-(C) are met. These minor changes would be within the EA's authority and consistent with the State minimum standards and the existing solid waste facility permit. The current list in Section 21620(a)(1) would then be used as examples of minor changes and not as a qualifying list. An alternative to eliminating the minor change list would be to keep the existing list but add provisions such that the EA has flexibility to classify a change as minor. The proposed change would have to be of the same nature as those on the minor change list, where the change is essentially nonmaterial to the operations.	
21620(a)(1)	60-06 PH-08	We are not supportive of the minor change list alternative 1 and 2 as it has been our experience that exceptions to such lists can become problematic for solid waste facilities. We would suggest that the minor change lists be placed in a LEA Advisory for use by the LEA and operator as examples of minor changes that will allow discretion on the part of the LEA to accept such changes with noticing from the operator similar to what is described in § 21620 (a)(1)(E). <u>Public Hearing Comment</u> The minor change list which I worked with operators on that too. I was involved with it. It sounds easy, but it's a lot more complicated than you think. While we can live with the minor change list, I would recommend actually they put in advisory. For the very reason a lot of people even Huck and Chuck said was is because, you know, sometimes something could be on the minor list and then we really look at the situation and it's not minor for that facility. Or there's something we hadn't thought about that should be on the minor list. So I think an advisory setup where you have examples for people to look at and work with, then, you know, at least we have something to discuss and decide okay, this is minor. We're not going to go through the RFI amendment, so on, so on.	Please see response to commenter 60-20 regarding Section 21620(a)(1).
21620(a)(1)	60-05 PH-04	Do not support the Minor, or Optional Minor Change list as criteria that must be met to implement a change without LEA/EA approval or review (Title 14, Section 21620(1). Support writing a guidance document that could assist owners and operators of an application means of processing minor changes to the permit. The proposed lists of items that would be considered non-significant would be problematic in keeping the review and approval a discretionary action. The proposed items in the list may be significant or non-significant depending on the type of operation or facility, existing language in the facility supporting documentation, urban vs. rural etc. If the lists were "all-inclusive," any and all proposed non-significant change items would have to be consistent throughout the state with no question of discretion. This does not appear to be possible. Another problematic aspect to the lists is that the list can not be all-inclusive in which there will always be another item that should/could be on the list but is not. <u>Public Hearing Comment</u> Just as an example, in making discretionary actions – and I would also like to see if there's any real examples especially in the minor changes list of these items on here that have really been a problem to the permit process. Here's one example. I think it's ii. Changes in the training plan that do not affect the type or decrease the amount of training given to employees. I think we need to realize that some of	Please see response to commenter 60-20 regarding Section 21620(a)(1). The changes identified in the 60-day proposed regulations as the Alternative 1 list and the Alternative 2 list were recognized during the informal rulemaking process as acceptable changes for the minor change list. In addition to the list of changes, Section 21620(a)(1)(E) [formally 21620(a)(1)(D) in the 60-day regulations] was edited to allow operators to make changes without EA review, approval or prior notice that include, but are not limited to, those listed and that meet criteria specified in Section 21620(a)(1). These changes, whether listed or not, are supposed to be so minor that EA review and approval is not needed prior to the operator making the change. The operator is required to notify the EA of the change within 30 days of making the change. If the EA finds the change does not meet the criteria, the EA is required to provide a written finding to the operator explaining why the change did not qualify as a minor change and to require the operator to comply with all applicable requirements. This could include the EA using the decision tree in Section 21665 to determine that the change requires an amendment to the RFI, a modified permit, or a revised permit. The idea of operators giving EAs a heads-up about potential upcoming changes is good and will be promoted in planned EA guidance and training. Please see response to commenters 60-13 and 60-25 and commenter 60-19/PH-03

		these are already included in the RFI process that the LEA actually makes the discretionary action on, are the employees trained properly. That's the first change list. Other items that would be in here that I would assume that would be more appropriate to sit down with an LEA and see if it's appropriate to actually do a revise or modify before it even is on a list, changes of name and phone number or other contact information that would require change of the owner/operator. That would be something I would expect to see in a five-year permit review, my own opinion. Changes in emergency equipment with the same functionality. I would expect a lot of things to be sit down and talk to the LEA to see if they need to be put in the list or not. Changes in tanks and storage of material, we talked a lot about this at the workshop that we had. If these are not in a permit in the RFI, there's a lot of things you can do without having to talk to the LEA. If it conflicts with a permit, sure, it can be included in this dysentery and done in a correct manner. The Alternative 2 list I would have a very hard concern, very deep concern keeping this as a list that would be done without any LEA approval. As an example, changes in name only of owner/operator. You know, we already have a really good system in place to have a 45 day review of owner/operators. I'll have one coming up real quick to where, you know, if there's no conflict with either the permit or anything like that, you could do that in two or three days. Seriously, it's not that big a deal. Change in facility signing wording consistent with State minimum standards. With one of my sites that wanted to change a few things, that is actually another thing that's included in your RFI that I would consider a discretionary action in my opinion. Changes in the location of facility records, another one in Alternative 2. That's another item that would be in an RFI that I would consider as a discretionary action of where the LEA must make a decision. So that's just a few examples.	regarding Section 21620(a)(1) to see how the minor change list was edited to provide clarity and correct redundancy.
21620(a)(1)	60-08	The proposal effectively divests LEAs of authority over "minor" changes to permitted facilities, because these changes can be implemented "without LEA review and approval" if specified criteria are met. The proposal provides no opportunity for the LEA to satisfy itself that those criteria are in fact met before a change is implemented. Instead the applicant will make those decisions, telling the LEA later, and the burden will be on LEAs to detect and to take enforcement action to reverse changes asserted to be "minor" that are not appropriate for the facility without further LEA review. Divesting LEAs of authority over minor changes unless permits are tightly written will not simplify the permitting and permit amendment process; it will instead put increased pressure on LEAs to write detailed and restrictive permits.	Please see response to commenter 60-20 regarding Section 21620(a)(1).

		Alternatively, LEAs may attempt to rely on permit boilerplate that prohibits changes in operations at a facility without the prior approval of the LEA. This would be philosophically but not literally inconsistent with these proposed regulations. Many LEA permits statewide already include this type of language. This proposal should expressly ratify this practice, for LEAs that choose to require a prior review of minor changes. Subsequent CIWMB review would still be eliminated. The LEA is not supportive of the minor change list alternative 1 and 2, as placing lists in regulation does not allow for flexibility and decision making. The minor changes should be discussed in an LEA Advisory for use by the LEA and operator as examples of minor changes. This would allow the LEA to use discretion in accepting such changes with noticing from the operator in a manner similar to section 21620 (a) (1) (E).	
21620(a)(1)	60-07	I recommend that all language referring to the Minor Change List, Optional Minor Change List, and Significant Change List (Sections 21620(a)(1)(D) and 21620(a)(4)) be removed from the proposed regulations. a. The proposed changes identified in the lists may be significant or non-significant depending on the type of operation or facility, existing site-specific conditions in the SWFP and its supporting documentation including the CEQA documents), location, etc. The lists cannot be consistently applied to all facilities and could lead to confusion and conflict between the operators, LEAs and California Integrated Waste Management Board (CIWMB) staff. b. The permitting process is the responsibility of the LEA and the ability of the LEA to make discretionary decisions is key. The use of these lists would minimize the ability of the LEA to make necessary permit decisions that are beneficial to the operator, the CIWMB and the LEA. As permits are site specific, the lists could also limit the options available to operators in the permitting process. c. If these lists provide a useful tool in assisting LEAs to determine significant changes, they should be provided in an LEA Advisory or other guidance document that allows for the needed flexibility in the permitting process. Do not include them as inflexible regulation.	Please see response to commenter 60-20 regarding Section 21620(a)(1).
21620(a)(1)	60-21	Only until recently has CIWMB staff agreed to fulfill the legislative mandate of AB 1497 and consider an extremely limited list of "minor changes" and a list of "significant changes" after pressure from industry. It is the Department's opinion that the ***only*** item the CIWMB and its staff should focus on is the "significant change" issue and development of that definition. To list "minor changes" as well as significant changes continues to gray the issue. If the "significant change" list is inadequate after promulgation, then it is the CIWMB's responsibility to revisit it in the future to develop and provide the regulated community clear guidelines and compliance parameters.	The proposed regulations are designed to address various permit-related issues and clarify existing regulations that were mandated by the Legislature, directed by the Board, or identified at workshops with stakeholders. This includes AB 1497 requirements as well as other permit-related issues. Board staff was directed by the Board in November 2005 to work with stakeholders in the development of minor change and significant change lists and to insert these lists into the regulations prior to beginning the 60-day comment period so commenters could consider both the merit of the list concept as well as the content of the lists. The purpose of the minor change lists is to provide certainty to operators and EAs on what changes could be made by an operator in the design or operation of a solid waste facility that would not require EA review and approval, unlike what is required for an RFI amendment, modified, revised and new permits. Please see response to commenter 60-20 regarding Section 21620(a)(1).
21620(a)(1)	60-24	This section should be re-labeled as section (E), and a new section (D) should state,	Requiring the operator to consult with the EA prior to implementing a minor

(E)		"The EA has been consulted and has agrees that the change will not require a permit revision, a permit modification, or an amendment to the RFI."	change is not consistent with what was discussed during the informal rulemaking process, which is to allow operators to make minor changes that meet criteria specified in Section 21620(a)(1) prior to notifying the EA. The intent of the minor change list is to allow operators to make minor changes without EA review, approval or prior notice that include, but are not limited to, those listed and that meet criteria specified in Section 21620(a)(1). These changes, whether listed or not, are supposed to be so minor that EA review and approval is not needed prior to the operator making the change. The operator is required to notify the EA of the change within 30 days of making the change. If the EA finds the change does not meet the criteria, the EA is required to provide a written finding to the operator explaining why the change did not qualify as a minor change and to require the operator to comply with all applicable requirements. This could include the EA using the decision tree in Section 21665 to determine that the change requires an amendment to the RFI, a modified permit, or a revised permit. The idea of operators giving EAs a heads-up about potential upcoming changes is good and will be promoted in planned EA guidance and training. Please see response to commenters 60-13 and 60-25 and commenter 60-19/PH-03 regarding Section 21620(a)(1) to see how the minor change list was edited to provide clarity and correct redundancy.
21620(a)(1) (E)	60-24	Section 21620(a)(1)(D) Alternative 1 (iii). Please revise to read, "Changes in any name, phone number, mailing address, or other contact information…."	Section 21620(a)(1)(E)(iii), formally Section 21620(a)(1)(D)(iii) in the 60-day proposed regulations, was edited by adding "mailing address" to the list of changes. Please see response to commenters 60-13 and 60-25 and commenter 60-19/PH-03 regarding Section 21620(a)(1) to see how the minor change list was edited to provide clarity and correct redundancy.
21620(a)(1) (E)	60-24	Section 21620(a)(1)(D) Alternative 1 (iii), add the phrase, "provided that the appropriate changes are made to the RFI as part of the next application for RFI amendment."	The suggested edit was not made in order to provide flexibility to EAs in processing minor changes. EAs would be able to accumulate the minor change notices and, if appropriate, update the RFI at the next RFI update or as part of a facility's 5-year review. Please see response to commenters 60-13 and 60-25 and commenter 60-19/PH-03 regarding Section 21620(a)(1) to see how the minor change list was edited to provide clarity and correct redundancy.
21620(a)(1) (E)	60-13 60-25	*Specific Request* – We concur with Alternative 2 Optional Minor List, provided: • Subsections xiii and xvi are deleted; and, • Subsection ix is expanded to read as follows: "Changes to traffic patterns on-site that do not affect off-site traffic **and/or negatively impact adjacent improved properties**." *Discussion* – The above changes will help address our concern expressed in item 1 above *(under section 21563(d)(2))* since they have the potential to have a significant impact on the community and the environment.	The changes (xiii) and (xvi), identified in the 60-day proposed regulations as changes in the Alternative 2 list, were renumbered to (xviii) and (xxi). These changes were recognized during the informal rulemaking process as acceptable changes for the minor change list. In addition to the list of changes, Section 21620(a)(1)(E) [formally 21620(a)(1)(D) in the 60-day regulations] was edited to allow operators to make changes without EA review, approval or prior notice that include, but are not limited to, those listed and that meet criteria specified in Section 21620(a)(1). These changes, whether listed or not, are supposed to be so minor that EA review and approval is not needed prior to the operator making the change. The operator is required to notify the EA of the change within 30 days of making the change. If the EA finds the change does not meet the criteria, the EA is required to provide a written finding to the operator explaining why the change did not qualify as a minor change and to require the operator to comply with all applicable requirements. This could include the EA using the decision tree in Section 21665 to determine that the change requires an amendment to the RFI, a modified permit, or a revised permit. The idea of operators giving EAs a heads-up

			about potential upcoming changes is good and will be promoted in planned EA guidance and training. Change (ix), renumbered to (xv) "Changes to traffic patterns on site that do not affect off-site traffic," was clarified by adding that "and/or adjacent properties" could not be affected as well. Please see response to commenters 60-13 and 60-25 and commenter 60-19/PH-03 regarding Section 21620(a)(1) to see how the minor change list was edited to provide clarity and correct redundancy.
21620(a)(1)(E)	60-16	*(i) Replacement of an existing environmental or operational monitoring point that has been damaged or rendered inoperable, without* ***significant*** *change to location or design of the monitoring point.* We suggest that the word *"significant"* be added in order to allow the operator some flexibility in deviating from the original monitoring point design and location. In some situations, a monitoring point becomes inoperable due to improper siting, design, or malfunction. In addition, the design of the monitoring point may no longer meet industry or regulatory standards and therefore needs to be redesigned accordingly. *(iii) Changes in the* ***design and location of tanks****/ containers used for storage of materials****, site offices, fee booths, roads*** *that does not interfere with the design and operation of the facility.* We suggest adding language that would allow flexibility in relocating and changing the design of various structures and roadways due to changing site conditions, as in the case of landfills. Note that EAs do not issue individual permits for storage tanks/containers, site offices, and fee booths. *(xv)* ~~*Purchase*~~ ***Acquisition*** *of property adjacent to the facility if not used for solid waste operations.* IWMD suggests replacing the word "Purchase" with the word "Acquisition" since adjacent property can also be acquired through gifts and deeds.	The changes (i) and (iv), identified in the 60-day proposed regulations as changes in the Alternative 2 list, were renumbered to (ix) and (xi). These changes were recognized during the informal rulemaking process as acceptable changes for the minor change list. In addition to the list of changes, Section 21620(a)(1)(E) [formally 21620(a)(1)(D) in the 60-day regulations] was edited to allow operators to make changes without EA review, approval or prior notice that include, but are not limited to, those listed and that meet criteria specified in Section 21620(a)(1). These changes, whether listed or not, are supposed to be so minor that EA review and approval is not needed prior to the operator making the change. The operator is required to notify the EA of the change within 30 days of making the change. If the EA finds the change does not meet the criteria, the EA is required to provide a written finding to the operator explaining why the change did not qualify as a minor change and to require the operator to comply with all applicable requirements. This could include the EA using the decision tree in Section 21665 to determine that the change requires an amendment to the RFI, a modified permit, or a revised permit. The idea of operators giving EAs a heads-up about potential upcoming changes is good and will be promoted in planned EA guidance and training. Change (xv), renumbered to (xxi) "Purchase of property adjacent to the facility if not used for solid waste operations" was clarified by replacing "purchase" with "acquisition " and "operations" with "activities." "Acquisition" is a more appropriate term since adjacent property can also be acquired through gifts and deeds, and "activities" is a better term since it is more inclusive. Please see response to commenters 60-13 and 60-25 and commenter 60-19/PH-03 regarding Section 21620(a)(1) to see how the minor change list was edited to provide clarity and correct redundancy.
21620(a)(1)(E)	60-24	Section 21620(a)(1)(D) Alternative 2 (ii). This item is more restrictive than item (iii) and should be removed from the list in favor of item (iii).	Change (ii), renumbered to (x) "Updated changes to other regulatory agency documents that are included by reference in a RFI only" was edited to remove redundancy by deleting that the change "will not result in an change to the design and/or operation that are within the LEA's authority," since Section 21620(a)(1)(D) requires that a minor change cannot "conflict with the design and operation of the facility as provided in the current RFI." Change (iii), renumbered to (xi)) "Updated changes to other regulatory agency documents that are included by reference in a RFI only" was deleted since it is duplicative of the edited version of change (x).
21620(a)(1)(E)	60-24	Section 21620(a)(1)(D) Alternative 2 (v). The change in name of owner/operator should be handled with the modification of the permit.	Change (v) "Change in name only of owner/operator" was deleted since it is duplicative of existing regulation, Section 21630.
21620(a)(1)	60-24	Section 21620(a)(1)(D) Alternative 2 (vi). The change in background information	The change (vi) was renumbered to (xii). This change was recognized during the

(E)		should be handled on a case-by-case basis and may require an RFI amendment or permit action.	informal rulemaking process as an acceptable change for the minor change list. In addition to the list of changes, Section 21620(a)(1)(E) [formally 21620(a)(1)(D) in the 60-day regulations] was edited to allow operators to make changes without EA review, approval or prior notice that include, but are not limited to, those listed and that meet criteria specified in Section 21620(a)(1). These changes, whether listed or not, are supposed to be so minor that EA review and approval is not needed prior to the operator making the change. The operator is required to notify the EA of the change within 30 days of making the change. If the EA finds the change does not meet the criteria, the EA is required to provide a written finding to the operator explaining why the change did not qualify as a minor change and to require the operator to comply with all applicable requirements. This could include the EA using the decision tree in Section 21665 to determine that the change requires an amendment to the RFI, a modified permit, or a revised permit. The idea of operators giving EAs a heads-up about potential upcoming changes is good and will be promoted in planned EA guidance and training.
21620(a)(1)(E)	60-24	Section 21620(a)(1)(D) Alternative 2 (ix). Changes in on site traffic patterns may require the amendment of an RFI.	Change (ix), renumbered to (xv) "Changes to traffic patterns on site that do not affect off-site traffic," was clarified by adding that "and/or adjacent properties" could not be affected as well. If the EA finds after being notified by the operator that the change does not meet the criteria, the EA is required to provide a written finding to the operator explaining why the change did not qualify as a minor change and to require the operator to comply with all applicable requirements. This could include the EA using the decision tree in Section 21665 to determine that the change requires an amendment to the RFI, a modified permit, or a revised permit. The idea of operators giving EAs a heads-up about potential upcoming changes is good and will be promoted in planned EA guidance and training. Please see response to commenters 60-13 and 60-25 and commenter 60-19/PH-03 regarding Section 21620(a)(1) to see how the minor change list was edited to provide clarity and correct redundancy.
21620(a)(1)(E)	60-24	Section 21620(a)(1)(D) Alternative 2 (xi). Change in location of facility records may require the amendment of an RFI.	The change (xi) was renumbered to (xvii). This change was recognized during the informal rulemaking process as an acceptable change for the minor change list. In addition to the list of changes, Section 21620(a)(1)(E) [formally 21620(a)(1)(D) in the 60-day regulations] was edited to allow operators to make changes without EA review, approval or prior notice that include, but are not limited to, those listed and that meet criteria specified in Section 21620(a)(1). These changes, whether listed or not, are supposed to be so minor that EA review and approval is not needed prior to the operator making the change. The operator is required to notify the EA of the change within 30 days of making the change. If the EA finds the change does not meet the criteria, the EA is required to provide a written finding to the operator explaining why the change did not qualify as a minor change and to require the operator to comply with all applicable requirements. This could include the EA using the decision tree in Section 21665 to determine that the change requires an amendment to the RFI, a modified permit, or a revised permit. The idea of operators giving EAs a heads-up about potential upcoming changes is good and will be promoted in planned EA guidance and training.
21620(a)(1)(E)	60-24	Section 21620(a)(1)(D) Alternative 2 (xii). Change of designated enforcement agency should be handled on a case-by-case basis and may require an RFI	Change (xii), identified in the 60-day proposed regulations as a change in the Alternative 2 list, was deleted in Section 21620(a)(1)(E) [formally 21620(a)(1)(D)

		amendment or permit modification.	in the 60-day regulations] since it is duplicative of existing regulation, Section 18050 et seq.
21620(a)(1)(F)	60-26	The phrase *"reasonable time"* needs to be defined.	Section 21620(a)(1)(F) [formally 21620(a)(1)(E) in the 60-day regulations] was edited by adding 30 days as the time the operator is required to notice the EA of a minor change. 30 days is a reasonable amount of time for noticing the EA and coincides with the timing of monthly inspections by the EA.
21620(a)(1)(F)	60-13 60-25 60-03 60-23	*Specific Request* – Define the phrase "reasonable time." We recommend 15 calendar days as a reasonable time. *Discussion* – The above change will help address our concern expressed in item 1 above *(under section 21563(d)(2))* by removing ambiguity as to what is meant by a "reasonable time."	Please see response to commenter 60-26 regarding Section 21620(a)(1)(F).
21620(a)(1)(F)	60-20	The term "reasonable time," as referred to in Section 21620 (a)(1)(E) should be defined. Our recommendation is that the definition includes a period of not less than 30 calendar days.	Please see response to commenter 60-26 regarding Section 21620(a)(1)(F).
21620(a)(1)(F)	60-24	"A reasonable time" should be changed to "the operator shall notice the EA preferably before the change, but no later than 30 days after the change has been made."	Please see response to commenter 60-26 regarding Section 21620(a)(1)(F).
21620(a)(1)(F)	PH-01	But we think that – at least one speaker pointed out that key provision on page 7 of the regulation on lines 22, 23, and 24 that says, "However, if the EA determines at a later date the change does not meet the criteria for minor changes, the EA may require the operator to comply with all applicable requirements." We think this really is a great safety net, and we want to see it left in place. Because if for some reason the EA does believe it was something that was on the minor change list or was being inappropriately applied and the operator went ahead and did, the operator cannot make a minor change without notifying the EA within ten days in writing of that minor change. So this gives a good safety net. And I would argue that it argues for inclusion of as broad a list as possible.	Section 21620(a)(1)(E) [formally 21620(a)(1)(D) in the 60-day regulations] was edited to allow operators to make changes without EA review, approval or prior notice that include, but are not limited to, those listed and that meet criteria specified in Section 21620(a)(1). These changes, whether listed or not, are supposed to be so minor that EA review and approval is not needed prior to the operator making the change. In Section 21620(a)(1)(F) [formally 21620(a)(1)(E) in the 60-day regulations], the operator is required to notify the EA of the change within 30 days of making the change. If the EA finds the change does not meet the criteria, the EA is required to provide a written finding to the operator explaining why the change did not qualify as a minor change and to require the operator to comply with all applicable requirements. This could include the EA using the decision tree in Section 21665 to determine that the change requires an amendment to the RFI, a modified permit, or a revised permit. The idea of operators giving EAs a heads-up about potential upcoming changes is good and will be promoted in planned EA guidance and training.
21620(a)(1)(F)	60-15 PH-05	We strongly support an EA override mechanism such as envisioned in Section 21620(a)(1)(E) should a Minor Change List be included in the regulations. This provision will maintain the essential element of local control in the facility permit process.	Please see response to commenter PH-01 regarding Section 21620(a)(1)(F).
21620(a)(1)(F)	PH-07	There is a proposed regulation in regards to the two minor lists that would allow the LEAs to override a minor change that happened. You know, perhaps after going out in the field after receiving the minor notice, they could go out and require an application if they determined there was something more going on than the minor change. So but however, our preference would be not to have a list, to have more open discretion, and then to maintain the local discretion that was discussed earlier.	The Board considered comments received during the 60-day and 15-day comment periods, and Board staff's analysis in making its decision at its October 17, 2006 meeting to approve retaining the minor change list. The minor change list (identified in the 60-day proposed regulations as "Alternative 1 Minor Change List" and "Alternative 2 Optional Minor Change List") was incorporated into the proposed regulations under Section 21620(a)(1)(E) [formally 21620(a)(1)(D) in the

		But we would want that – if the list were to be included, we would want to make sure that the Section 21620(a)(1)(E)(iii) stayed intact in its current language.	60-day regulations]. Section 21620(a)(1)(E) was edited to allow operators to make changes without EA review, approval or prior notice that include, but are not limited to, those listed and that meet criteria specified in Section 21620(a)(1). These changes, whether listed or not, are supposed to be so minor that EA review and approval is not needed prior to the operator making the change. In Section 21620(a)(1)(F) [formally 21620(a)(1)(E) in the 60-day regulations], the operator is required to notify the EA of the change within 30 days of making the change. If the EA finds the change does not meet the criteria, the EA is required to provide a written finding to the operator explaining why the change did not qualify as a minor change and to require the operator to comply with all applicable requirements. This could include the EA using the decision tree in Section 21665 to determine that the change requires an amendment to the RFI, a modified permit, or a revised permit. The idea of operators giving EAs a heads-up about potential upcoming changes is good and will be promoted in planned EA guidance and training.
21620(a)(1)(F)	60-16	*(iii) the notice is for informational purposes only and is not subject to EA compliance measures; however, if the EA determines ~~at a later date~~* ***within 30 days of receiving the notification*** *that the change does not meet the criteria for minor change, the EA may require the operator to comply with all applicable requirements; and* We believe that EAs should be given a timeframe to determine if a change does not qualify as a minor change. Thirty days should provide enough time for EAs to object to the change and require the operator to undo the change or submit an application for a RFI amendment or permit revision. The proposed regulations should not be open ended, allowing an EA unspecified timeframe to inform the operator the change did not meet the requirements of a minor change when the operations has evolved around that change.	Section 21620(a)(1)(F)(iii) [formally 21620(a)(1)(E)(iii) in the 60-day regulations] as edited in the proposed regulations does not specify a timeframe for EAs to make a finding regarding a minor change. If the EA finds the change does not meet the criteria, the EA is required to provide a written finding to the operator explaining why the change did not qualify as a minor change and to require the operator to comply with all applicable requirements. This could include the EA using the decision tree in Section 21665 to determine that the change requires an amendment to the RFI, a modified permit, or a revised permit. The timeframe is left open since it may not be apparent to the EA that the change is not a minor change until it is implemented and observed by the EA. This could take several months.
21620(a)(3)	60-14	Because Section 21620 applies to changes in design and operation, 21620(a)(3) must be deleted from Section 21620(a). A modified permit is used to effect non material changes, and by definition a non material change is not a physical change in design or operation. Accordingly, Section 21620(a) should be modified to read: (a) This section applies to any operator proposing to make a physical change in the design or operation (as defined in subdivision 21663(a)) of the permitted facility, where such change is subject to the authority of the EA acting pursuant to the Integrated Waste Management Act or regulations promulgated under such Act and one of the following categories apply: (1) Minor Change - the change qualifies as a minor change pursuant to §21620(a)(1), in which case the operator shall comply with §21620(a)(1)(E); (2) RFI Amendment - the EA has determined that an amendment to the RFI is required for the change, in which case the operator shall comply with §21620(a)(2); or (3) ~~Modified Permit - the EA has determined that the solid waste facilities permit requires modification pursuant to §21665(d), in which case the operator shall comply with §21620(a)(3); or (4)~~ Revised Permit - the EA has determined that the solid waste facilities permit requires revision pursuant to §21665(e) or §21620(4), in which case the operator shall comply with §21620(4).	Please see response to commenter 60-14 regarding Section 21563(d)(6).

21620(a)(3)	60-21	The Department believes that to comply with the AB 1497 mandate, that CIWMB should adopt regulations that only define the term "significant change" and direct the EA/CIWMB staff to find that items not listed in the "significant change" definition do not require permit revision. No new "modified" permit process would be necessary. The Department disagrees that less than significant changes to a permit still require permit revision and CIWMB concurrence. The Department further believes that no notice is necessary to EA or CIWMB for less than significant changes, particularly if not required to have EA review and approval.	PRC Section 44009 requires that the Board concur on modifications to permits, not just revised and new permits. AB 1497 included additional requirements for revised permits. Pursuant to AB 1497 and the need to define changes that require a permit revision, it is apparent that there is need to define a process for changes that do not require a permit revision, but still require the permit to be changed. The proposed regulations indicate the process for other changes to the permit that do not require revision. Currently, the only process defined in existing regulations to make any changes to a solid waste facilities permit is to revise the permit. This means less than significant changes must be processed and brought to the Board at a regular Board meeting for concurrence as a revised permit. Creating a modified permit process allows modifications to a permit for changes that do not require a permit revision . The proposed regulations provide that the Board's Executive Director would have the authority to act on behalf of the Board on modified permits.
21620(a)(4)	60-21	The Department believes that to comply with the AB 1497 mandate, that CIWMB should adopt regulations that only define the term "significant change" and direct the EA/CIWMB staff to find that items not listed in the "significant change" definition do not require permit revision. Attached is our suggested list of "significant changes". As stated above, if not on the "significant changes" list, no revision to the permit should be required and the regulations should clearly reflect that requirement. **RCWMD Proposed List of "Significant Changes"** 1. Increase in maximum amount of permitted tonnage of all waste received. 2. Increase in the facility's permitted acreage. 3. Increase in the permitted hours of operation. 4. For landfill, increase in permitted disposal footprint and/or permitted (final grade) the maximum overall height.	AB 1497, effective January 1, 2004, requires the Board (to the extent resources are available) to adopt regulations that define the term "significant change in the design or operation of the solid waste facility that is not authorized by the existing permit." The proposed regulations define the term "significant change in …" using a methodical process in the form of a decision tree as provided Section 21665 for EAs to follow when they are presented with a request by an operator to make changes to the SWFP. The methodology provides a consistent analytical process for EAs to use that allows EAs to consider site-specific considerations and circumstances when determining if a proposed change is significant and requires a revision to the permit. In following this process, requested changes to design and operation that require the permit to be changed will only be deemed significant if the EA determines that there is a need to condition or limit the new activity in order to protect public health, safety, the environment, or ensure compliance with state standards. The Board's Permitting and Enforcement Committee directed staff at its November 7, 2005 meeting to work with stakeholders in the development of two lists that could be inserted into the regulations prior to beginning the 60-day comment period: first, a list of minor changes that would not require EA review and approval prior to the operator taking action, and, second, a list of changes that would always require a revision to the permit. The purpose of the significant change list is to provide certainty to operators and EAs on what changes could be made by an operator in the design or operation of a solid waste facility that would always require a permit revision. The four significant changes listed in Section 21620(a)(4) were identified through the workshop process held in November 2005 and were recognized during the informal rulemaking process as acceptable changes for the significant change list. The Board considered comments received during the 60-day and 15-day comment periods, and Board staff's analysis in making its decision at its October 17, 2006 meeting to approve retaining the significant change list. The intent of the list is to identify a list of changes in the design or operation of a solid waste facility that would always be considered significant and always require a permit revision. For all other changes in the design or operation of a facility proposed by the operator that do not qualify as a minor change, the EA will use the decision tree in Section 21665 to determine if the proposed change can be approved through an RFI amendment, modified permit, or revised permit.

21620(a)(4)	60-19 PH-03	One of our primary concerns has to do with the longstanding problem of defining "significant change" at a solid waste facility. This has been attempted for almost twenty years without noteworthy results. Nonetheless, the EA and the CIWMB have worked together during that time to continue permitting new and "changing" facilities. Your draft regulations include the following attempt at a definition: Section 21563(d)(6) "Significant Change" means a change in design or operation of a solid waste facility where the EA has determined pursuant to §21665 that the change is of such consequence that the solid waste facilities permit needs to include further restrictions, prohibitions, mitigations, conditions or other measures to adequately protect public health, public safety, ensure compliance with State minimum standards or to protect the environment. We do not take issue with this definition as far as it goes, and admittedly, it is very difficult to develop a definition that is concise and comprehensive to the point of providing clear guidance to the EA and the operator. You have also provided an Alternative 3 "Significant Change List" as shown below: Section 21620 (4) Notwithstanding anything to the contrary in §21665(e), the following changes in design or operation are considered significant and require an application for a revised permit: (A) Increase in maximum amount of permitted tonnage of all waste received. (B) Increase in the facility's permitted acreage. (C) Increase in the permitted hours of operation. (D) For landfill, increase in permitted disposal footprint and/or permitted (final grade) the maximum overall height. When the definition and the list are utilized together, there is an implication that any specified increases in tonnage, acreage, hours of operation, or permitted footprint are significant, and this is clearly not necessarily the case. In addition, the A-D designations above would negate the use of the decision tree which is the core structure of the new regulations. Thus, the list is not helpful as it is currently stated. We believe that such a list is important and in order to utilize the decision tree more effectively, and to add more clarity and certainty to the permit process, we would suggest that the significant change list utilize a 10% threshold. This would allow for facility changes that are less than 10% to be considered through the decision tree process, and for facilities with greater than 10% change to be considered significant change.	Please see response to commenter 60-21 regarding Section 21620(a)(4).

		Public Hearing Comment Now when you get to the significant change list, then we run into a road block, because the way the list is written, it pretty much negates what the decision tree tires to do. And so that gives me a problem. And I also think that the significant change portion of it in many ways is at least a major part of what 1497 was trying to get at. So I think we need to pay some attention to that. And the concept of a 10 percent change does add some certainty to it without taking away the flexibility of the situation. Because if you're under 10 percent, you would immediately fall back to your decision tree, which is what I think is kind of at the heart of what you're trying to do here in these regs. But it also would add a certainty for the operator to know what he's facing when he or she is doing a certain kind of activity or new activity at the facility. So for that reason, we would bump up the 10 percent concept in those four items and maybe put the – kind of reverse Chuck White's concepts a little bit in terms of number one and number two. But I think for that reason that it adds that clarity. It gives some substance to your significant change concept that everybody understands there's no ambiguity about it whatsoever. Because if you substitute other words, other qualitative words to it, you really haven't done anything and you're automatically going to fall back to the decision tree anyway. So that's what we're trying to do with that.	
21620(a)(4)	60-13 60-25	*Specific Request* – We concur with the Significant Change List as proposed in Alternative 3 and request the following subsections be added: (E) Importation of waste material originating from areas outside the wasteshed areas, if any (F) extending the disposal site closure date (G) changing the days and hours of operation (H) increases in the maximum daily tonnage delivered to the facility for processing, beneficial on-site use and/or disposal" *Discussion* – This Alternative and the added language above will help address our concerns expressed in item 1 *(under section 21563(d)(2))*, all the while retaining the ability for decision makers and residents most impacted by the proposed permit activity to have a say in adopting reasonable, site-specific control measures.	Please see response to commenter 60-21 regarding Section 21620(a)(4). The additional changes suggested for the significant change list could be significant or insignificant depending on site specific conditions at the facility. The decision tree provided in Section 21665, which allows the EA to consider site-specific considerations and circumstances when determining if a proposed change is significant and requires a revision to the permit, is the best vehicle for making this determination.
21620(a)(4)	PH-05	In general, I think the issue that we'd like to see is to retain the LEA discretion. But if the Board were to feel compelled to come up with some sort of list, we'd like to see an LEA override. And really what that means is that you can have your list, but if there's an extenuating circumstance, if there's a really important reason that maybe we don't see up front – say there's a Water Board issue or an Air Board issue or something else that doesn't look that apparent and the LEA notices it, then they can say, "Yes, you're on the list, but." So there's an override. There's a compelling reason to take it off the list or put it on the list. And we do that with several other programs, particularly in the Toxics Program. And it works well. It's like ratcheting someone up or down one of the tiering when you have to tier them in the permit.	Please see response to commenter 60-21 regarding Section 21620(a)(4). No mechanism is provided to the EA for overriding the changes listed on the significant change list since the intent of the list is to identify a list of changes in the design or operation of a solid waste facility that would always be considered significant and always require a permit revision. For all other changes in the design or operation of a facility proposed by the operator that do not qualify as a minor change, the EA will use the decision tree in Section 21665 to determine if the proposed change can be approved through an RFI amendment, modified permit, or revised permit.

		So that's really our strongest comment is that it will be difficult for the Board to decide whether it's a 10 percent or 5 percent, whether to have the list or not. I know the LEAs are going to appeal not to have these lists or certainly not to have a significant list. But I would urge the Board and the staff to consider this sort of override. Then we won't have to do what my esteemed colleague Chuck White recommends and introduce another term with substantial. Because I can commit if you put that term in, it will be another 15 years debating what substantial is and we have to go through another set of regulations.	
21620(a)(4)	60-09 PH-01	Substantial Change. Alternative 3 suggests that a list of 4 changes that would always be considered "significant", related to: • Increase in permitted tonnage, • Increase in permitted acreage, • Increase in permitted hours of operation, and • For landfills only, increase in: i. Disposal footprint ii. Permitted final grade, and iii. Maximum overall height. We do not dispute that many such changes are likely significant. However, we are sometimes faced with having to make minor changes in one of these categories to better coordinate the various permits we have received from the many agencies that regulate our facilities (SWFP, CUP, Air District, RWQCB, etc.). Further, the CIWMB has existing regulations related to emergency situations and is in the process of considering changes to those regulations. On the surface, it would appear that the inclusion of a fixed list of "significant changes" would jeopardize the flexibility of state and local government to respond to emergency situations. The proposed regulations would appear to mandate a full permit revision, for example, even if the facility were proposing to add a ¼ acre parcel to the permitted facility without any change in the scope or configuration of the actual solid waste operation – or even in the even of an emergency situation. We believe that further latitude should be provided to the LEA to determine when any of the above changes are, or are not, truly "substantial". We would support, in descending order of preference, the following options for your further consider: • Option 1: Do not specifically list any "Significant Changes". This would address the concern that some minor adjustments to the above list might be considered less than significant, but the regulations would still force a full permit revision for any changes that the LEA determines are covered under the definition of "Significant Change". • Option 2: Provide a percentage cut-off to what would be considered a significant change. For example, consistent with generally accepted practices, a 10% change in something is not usually considered	Please see response to commenter 60-21 regarding Section 21620(a)(4).

		"significant". Thus the regulations would read: (A) Greater than a 10% increase in maximum amount of permitted tonnage of all waste received. (B) Greater than a 10% increase in the facility's permitted acreage. (C) Greater than a 10% increase in the permitted hours of operation. (D) For landfill, greater than a 10% increase in permitted disposal footprint; ~~and/or~~ permitted ~~(~~final grade~~)~~; or the maximum overall height. • Option 3: Provide the LEA with discretionary latitude as to what would be considered significant. For example the proposed regulation could be modified to read as follows: (A) Substantial increase in maximum amount of permitted tonnage of all waste received. (B) Substantial increase in the facility's permitted acreage. (C) Substantial increase in the permitted hours of operation. (D) For landfill, substantial increase in permitted disposal footprint; ~~and/or~~ permitted ~~(~~final grade~~)~~; or the maximum overall height. For purposes of this section, substantial increase means, as determined by the EA, a change of such magnitude that: 1. the operation of the facility would inconsistent with the most recent environmental documents prepared for the facility, and 2. the change is of such importance, value, degree, amount, or extent that the facility's operation would be materially different. We believe that this provision, in conjunction with our proposed change to the definition of "nonmaterial change" earlier in these comments, would provide the LEA with discretionary latitude to allow minor changes in permitted tonnage, acreage, hours, footprint, final grade, or height without jeopardizing the standards of "significance". We would further suggest that language be added to clearly allow departure from the significant change provision in order to respond to emergency situations. Public Hearing Comment And then with respect to the substantial change provision, we have really – I didn't give you a definitive answer to our concern, but we gave you three options. And one option would be simply do not list any specific significant changes and allow the decision tree process in the regulations to proceed to define what constitutes significant. Our concern is that the list of basically four – well, four categories, but increases in	

		permitted tonnage, increases in permitted acreage, and increases in permitted hours of operation and the specific provisions for landfills including disposal footprint, permitted final grade, and maximum overall height, that for the most part if you're talking about major changes in any of these things, they're clearly significant changes. But there may be minor adjustments. All of us have come across problems in our permits where one permit reads slightly different than another, and so you might want to make – as we get more and more sophisticated with our permitting process for solid waste facilities, you might want to have a way to be able to make those minor adjustments even though on outward appearance it would appear to be a significant change if it's only a minor adjustment to the provision. So our first preference would be to leave it out all together and allow the decision tree process to proceed. On the other hand, if that's not acceptable, we think there needs to be some kind of cutoff below which there's a threshold of significant. Some people have suggested a 5 percent change. Some people suggested 20 percent change. We're suggesting maybe a 10 percent change in any of these things below which would not be considered to be automatically significant. It would still have to go through the decision tree process, which then would allow the EA to make a determination if it is in fact significant. For example, if you wanted to add an acre – quarter acre parcel to your permitted facility but you're not going to change the overall nature and scope of your operation, why not be able to add that quarter acre as an in-fill type of thing to your permitted facility area. It's not significant. You're not changing your operations. But it wouldn't be automatically included just simply by virtue of the fact you're changing your permitted acreage. So if there was a provision such as 10 percent or some other numerical amount below which it wouldn't automatically be a significant change but it still could be considered a significant change through the decision tree process, that would be our second most preferable option rather than leave it out all together. Our third most preferable option would be rather than add a specific numerical amount like 10 percent, add the term "substantial" into each of these things. A substantial increase in maximum amount of permitted tonnage. A substantial increase in permitted acreage. A substantial increase in hours. And then you'd have to go through of course – and I bring out my little red book, "The Death of Common Sense; How Regulations Suffocating American," and you have to add a definition of what constitutes "substantial." And we suggested if you do go this route that something like the following might work. For purposes of this section, substantial increase means as determined by the EA a change of such magnitude that: One, the operation of a facility would be inconsistent with the most recent environmental documents prepared by the facility; and two, the change is of such importance, value, degree, amount, or extent that the facility's operation would be materially different. And so if that would allow a discretion to be applied whether it's a change – a small minor change in any of these factors, they wouldn't be necessarily considered significant. They would drop off the automatic significant list and still be considered under the decision tree process.	
21620(a)(4)	60-07	I recommend that all language referring to the Minor Change List, Optional Minor Change List, and Significant Change List (Sections 21620(a)(1)(D) and 21620(a)(4)) be removed from the proposed regulations. a. The proposed changes identified in the lists may be significant or non-	Please see response to commenter 60-21 regarding Section 21620(a)(4).

		significant depending on the type of operation or facility, existing site-specific conditions in the SWFP and its supporting documentation including the CEQA documents), location, etc. The lists cannot be consistently applied to all facilities and could lead to confusion and conflict between the operators, LEAs and California Integrated Waste Management Board (CIWMB) staff. b. The permitting process is the responsibility of the LEA and the ability of the LEA to make discretionary decisions is key. The use of these lists would minimize the ability of the LEA to make necessary permit decisions that are beneficial to the operator, the CIWMB and the LEA. As permits are site specific, the lists could also limit the options available to operators in the permitting process. c. If these lists provide a useful tool in assisting LEAs to determine significant changes, they should be provided in an LEA Advisory or other guidance document that allows for the needed flexibility in the permitting process. Do not include them as inflexible regulation.	
21620(a)(4)	60-02	Additionally, the majority of those attending the meeting were not in support of the Alternative Minor Change Lists 1 and 2 and Alternative 3 Significant Change list proposed in §21620. The primary concern raised at the Roundtables regarding the three C*hange in Operation lists*, as proposed in the draft regulations, was that they would limit an LEA's discretion and possibly lock operators into a position that would limit their permitting options. Of the three Lists, those attending the meeting would support Alternative Minor Change List 1, if necessary. However, there was little support for the Alternative 3 Significant Change list.	Please see response to commenter 60-21 regarding Section 21620(a)(4).
21620(a)(4)	60-18	The ESJPA supports removing the list of significant changes and relying on the proposed decision tree methodology to guide Enforcement Agencies in determining what qualifies as a significant change. The proposed definition in Section 21563 (b)(6) provides adequate guidance that a significant change "needs to include further restrictions, prohibitions, mitigations, conditions or other measures to adequately protect public health, public safety, ensure compliance with State minimum standards or to protect the environment." We recommend that Alternative 3 be removed and language added that refers back to the definition of significant change and allows Enforcement Agency discretion.	Please see response to commenter 60-21 regarding Section 21620(a)(4).
21620(a)(4)	60-01 PH-07	Not support the Alternative 1 Minor Change, Alternative 2 Optional Minor Change or Alternative 3 Significant Change lists as criteria that must be met to implement a change or revise a permit without LEA/EA review or approval [Title 14, Section 21620(a)(1)(4)]. The proposed lists attempt to identify items that would be considered non-significant or significant but would be problematic in keeping the review and approval a discretionary action. The proposed items in the list could be construed as significant or non-significant depending on the type of operation or facility, existing language in a facility's supporting documentation, or an urban vs. rural environment, etc. If the lists were "all-inclusive", any and all proposed non-significant change items would have to be consistent throughout the state with no	Please see response to commenter 60-21 regarding Section 21620(a)(4).

		question of discretion. This does not appear to be possible. Another problematic aspect to the lists is that they can not be all-inclusive in which there will always be another item that should/could be on the list but is not. Each proposed change must be treated on its own merit and the LEA would most likely be challenged as to why a particular proposed change would not be considered the same as the "approved list". Thus, any approved list can not be all-inclusive. The initial working group, in reviewing *significant change*, examined the current permitting structure, a previous 1986 report on Significant Change by a CIWMB Advisory Committee, as well as other available materials to determine that *lists* would not serve stakeholders in addressing the limitless variety of circumstances that could constitute changes at solid waste facilities. <u>Public Hearing Comment</u> And the EAC and the City of San Diego were both opposed to the significant change list, list three on the regulations. And so we would like to see that basically taken out of the reg package.	
21620(a)(4)	60-22	The LEA does not support the Alternative 1 Minor Change, Alternative 2 Optional Minor Change or Alternative 3 Significant Change lists as criteria that must be met to implement a change or revise a permit without LEA review or approval.	Please see response to commenter 60-21 regarding Section 21620(a)(4).
21620(a)(4)	60-20	Enforcement agencies should have discretion regarding the level of change rather than relying only on a list that can not include all possible situations. This discretion should apply to both minor changes and significant changes. Enforcement agency discretion is necessary since regulations cannot consider every possible situation for all facilities. Flexibility will allow sufficient ability to cover the range of circumstances. The proposed decision tree provides that assurance. Alternative 3 Significant Change List should be removed and the Enforcement Agencies base the determination of whether a change is significant upon the criteria used in the definition that a Significant Change. That definition states that a Significant Change if the change of such consequence that the solid waste facilities permit needs to include further restrictions, prohibitions, mitigations, conditions or other measures to adequately protect public health, public safety, ensure compliance with State minimum standards or to protect the environment.	Please see response to commenter 60-21 regarding Section 21620(a)(4).
21620(a)(4)	60-03	The LEA strongly prefers the decision tree approach over the List approach for determining the significance of a proposed change. The LEA adamantly opposes Alternative 3 Significant Change List. The inclusion of this list is in direct opposition to our reasons for supporting the decision tree concept. The Significant Change List attempts to implement a one-size-fits-all approach state wide and it disregards local issues (or lack thereof). We do not support it.	Please see response to commenter 60-21 regarding Section 21620(a)(4).
21620(a)(4)	60-05 PH-04	Fully support the Decision Tree as a process to identify whether a change in design, or new facility qualifies as an RFI amendment, Modified permit, Revised permit , or new permit (Title 14, Section 21620 (2,3,4))	Please see response to commenter 60-21 regarding Section 21620(a)(4).

		The decision tree includes defining, via a flow chart, whether a change of operation is significant and to what permit process is appropriate for that change. The major aspect of the flowchart is it provides and maintains EA discretion on determining whether the change is significant or not, and maintains local control and discretionary actions in the permit process. The proposed lists of items that would be considered non-significant would be problematic in keeping the review and approval a discretionary action. The proposed items in the list may be significant or non-significant depending on the type of operation or facility, existing language in the facility supporting documentation, urban vs. rural etc. If the lists were "all-inclusive," any and all proposed non-significant change items would have to be consistent throughout the state with no question of discretion. This does not appear to be possible. Another problematic aspect to the lists is that the list can not be all-inclusive in which there will always be another item that should/could be on the list but is not. Public Hearing Comment And definitely one strong key when we start dealing with the significant change list is maintaining local control on discretionary action as central to the permit process. I think that's a real key we need to look at when we talk about the significant change list and what's included. And more specifically, so on the decision tree, you know, obviously we're all trying to define significant change and what it is. I think the decision tree really allows you to have a methodology to go through that, whether it's starting out with an RFI, the modified which it seems like a lot of people would really support going to the revise in a full permit. I think you need to look at just the methodology of going through the decision tree as being the identifier to what is going to be a significant change and not specifically going to the list. And also the decision tree really allows and keeps where it should be the discretionary action of what the LEA is doing, and thus I think the Board should recognize their decision. Obviously, LEAs are certified through the Board and on paper represent the Board to really keep that discretionary action where it should be. And specifically to the significant change list, I don't think it would be a really good benefit for discretionary actions the LEAs are making. It would be in the Board's best interest.	
21620(a)(4)	60-06 PH-08	We are adamantly opposed to the Alternative 3 Significant Change List as this list is in direct conflict with the decision tree concept in determining significant change to design and operation at a particular solid waste facility. The one-size-fits-all approach has been shown to be ineffective for the diversity of facilities and communities in California. Public Hearing Comment The significant change list, we're completely opposed to it. We think the whole purpose of the decision tree is to get to a significant change decision. So a significant change list of any sort is always going to have some issue and some problem with some facility. We'd rather not even go there. Let the decision tree do	Please see response to commenter 60-21 regarding Section 21620(a)(4).

		what it's supposed to do. That's the whole point of the decision tree. As with any list, if you take out a list and reduce how many lists you have, it's always better. We think the significant change list we can't live with at all.	
21620(a)(4)	60-08	The LEA is opposed to the section 21620 (a)(4)Revised Permit- Alternative 3 Significant Change List for use in determining what is a significant change in a revised permit. This will restrict the discretion of the LEA to reflect the diversity of their jurisdiction and will impact decision making by the LEA.	Please see response to commenter 60-21 regarding Section 21620(a)(4).
21620(a)(4)	PH-06	I agree that the changes should be left to the LEA. I see no reason to say possible changes such as. But a hard list is just problems.	Please see response to commenter 60-21 regarding Section 21620(a)(4).
21620(a)(4)	60-28	Regulations cannot anticipate every situation and cannot predetermine the significance of what an inspector may find. The EAs need regulations that are strong, but flexible enough to cover a broad array of circumstances. The decision tree approach of Title 22, California Code of Regulations section 21665 provides EAs with an opportunity to consider the specific circumstances of a facility. While acknowledging the great effort that went into providing a reasonable list, the "decision tree" approach fulfills the goals of ESD better than the "list" approach. Alternative 3, the significant change list, provides no discretion at all to LEAs. This was added during the workshops held on these implementing regulations, but are not related to the purpose of streamlining the process, and remove discretion from LEAs, potentially resulting in needless processing.	Please see response to commenter 60-21 regarding Section 21620(a)(4).
21620 flow diagram	60-18	<u>Flow Diagram of the "Process For An RFI Amendment and Modified, Revised, and New Solid Waste Facility Permits"</u> The flow diagram entry the box "Under the RFI Amendment, 10 days prior to accepting an application" should also include Section 21660.1 (a) in the notice.	The suggested edit was not made since this box was deleted from the flow diagram. The version of the proposed regulations noticed during the 60-day comment period indicated the notice for the RFI amendment was to be a pre-notice that would take place before the EA took action (i.e., 10 days prior to the EA accepting an application). However, comments received during the comment period raised concern about the existing short, 30-day process time for RFI amendments (including acceptance/rejection and approval/denial of the application) and the difficulty associated with pre-noticing by the EA. Based on these comments, Board staff determined that the appropriate time for the EA to send the written notice pursuant to Section 21660(a)(2) or post the notice pursuant to Section 21660.1 was after the EA had accepted/approved the application. This will reduce the need for the EA to notice applications that are determined to be incomplete or incorrect and are rejected, or where the EA determined that findings could not be made and the application was denied. Hence, the box that required 10 days notice prior to EA accepting an application was deleted from the flow diagram.
21620 flow diagram	60-14	The flow diagram provided at the very end of Section 21620 illustrates the additional and unnecessary 30 days that an applicant seeking a modified permit must undergo. According to the flow diagram (later reinforced by Section 21666(c)) even if an applicant knows the non material change to the permit they intend to make requires a modified permit process, they must still first submit an RFI Amendment application, wait 30 days for an EA determination, then resubmit the application as a modified permit application and wait another 30 days. Please provide an opportunity for an operator and the EA to process a modified permit	Nothing in the existing or proposed regulations precludes an operator from applying directly for a modified or revised permit. If it is mutually determined through discussion between the operator and EA that a change is subject to a modified or revised permit process, the operator has the choice of going directly to the appropriate process. The operator would still need to apply 180 days prior to making the change. The authority for Section 21670 Change of Owner Operator and/or Address comes from PRC Section 44005 and cannot be applied to modified permits, whose authority comes from PRC Section 44009.

		directly. CCR 27 Section 21670 Change of Owner Operator and/or Address provides a reasonable model for processing non material changes.	
21620 flow diagram	60-08	The proposal requires certain noticing requirements to be met 10 days before an EA "accepts" an application as complete and correct. (See flowchart following 21620; and 21660.1(b).) In other words, deadline dates that cannot be established until a permit application is accepted, must be specified before the permit is accepted. (21660.1(a) (5).) This is all backwards. The LEA must accept an application as complete and correct, before it can determine whether to issue a permit, or how a permit or permit change may be conditioned. The conditions the EA ultimately determines it will impose, will in turn, under these regulations, determine whether a permit change is a "modification" that does not require an informational meeting or a "revision" that does require a meeting. Notice requirements should follow, not precede, LEA acceptance of an application. Requiring notice within 10 days of acceptance would be reasonable.	The version of the proposed regulations noticed during the 60-day comment period indicated the notice for the RFI amendment was to be a pre-notice that would take place before the EA took action, similar to the pre-notice for modified, revised, and new permits. However, comments received during the comment period raised concern about the existing short, 30-day process time for RFI amendments (including acceptance/rejection and approval/denial of the application) and the difficulty associated with pre-noticing by the EA. Based on these comments, Board staff determined that the appropriate time for the EA to send the written notice pursuant to Section 21660(a)(2) or post the notice pursuant to Section 21660.1 was after the EA had accepted/approved the application. This will reduce the need for the EA to notice applications that are determined to be incomplete or incorrect and are rejected, or where the EA determined that findings could not be made and the application was denied. In the case of posting the notice, the EA would be required to post the notice for at least 10 days, which provides the public with the same number of days of noticing as what was proposed earlier. Currently, the EA is not obligated to notice RFI amendments, except under the general requirement of mailing a written notice of an application to every person who has submitted a written request for such notice. The proposed regulations originally combined the noticing requirements for RFI amendments and modified permits together in Section 21660.1, but because of the processing differences between the two and that modified permits are processed similar to new and revised permits, modified permits were removed from this section and added to Section 21660.3 "Notice for New and Revised Permit Applications." Section 21650(e) requires the EA to post the notice for modified permits after finding the permit application complete and correct and within 60 days of receipt of the application. For new and revised permits, Section 21650(e) requires the EA to notice and conduct an informational meeting after finding the application complete and correct and within 60 days of receipt of the application.
21650(b)	60-24	The sentence should be revised to read, "The EA shall either accept or reject the application package within <u>sixty days</u> of its receipt." This language is necessary to account for the wording in statute under PRC Section 44004(h) that places the EA in a double-bind situation. The section requires that a public hearing be held within 60 days of receipt of the application, and before making a determination on the application. The section specifies as follows: (h) (1) (A) Before making its determination pursuant to subdivision (d), the enforcement agency shall submit the proposed determination to the board for comment and hold at least one public hearing on the proposed determination. The enforcement agency shall give notice of the hearing pursuant to Section 65091 of the Government Code, except that the notice shall be provided to all owners of real property within a distance other than 300 feet of the real property that is the subject of the hearing, if specified in the regulations adopted by the board pursuant to subdivision (i). The enforcement agency shall also provide notice of the hearing to the board when it submits the proposed determination to the board.	The existing requirement that the EA either accept or reject the application package within 30 days of its receipt does not need to be changed. The EA will need to hold an informational meeting within 60 days of receiving the application and within 30 days of finding the application package complete and correct, unless it was received as incomplete. The 30-day determination by the EA is whether the permit application package is complete or correct. The 60-day determination by the EA is whether the change proposed by the operator in the application package requires a permit revision.

		As referenced above, PRC Section 44004(d) is quoted below: (d) Within 60 days from the date of the receipt of the application for a revised permit, the enforcement agency shall inform the operator, and if the enforcement agency is a local enforcement agency, also inform the board, of its determination to do any of the following: (1) Allow the change without a revision to the permit. (2) Disallow the change because it does not conform with the requirements of this division or the regulations adopted pursuant to this division. (3) Require a revision of the solid waste facilities permit to allow the change. (4) Require review under Division 13 (commencing with Section 21000) before a decision is made.	
21650(e)	60-23	This new section states that after acceptance of an application for a new or revised SWFP as complete and correct and within 60 days of receipt of the application by the Enforcement Agency (EA), the EA shall notice and conduct an informational meeting. However, in the case of the acceptance of an incomplete application, the determination that the application is complete and correct could occur up to 180 days after its receipt. Thus, it is possible that the EA could not accept the application as complete and correct and conduct an informational hearing within 60 days of receipt of the application.	The EA will need to hold an informational meeting within 60 days of receiving the application and within 30 days of finding the application package complete and correct, unless it was received as incomplete. Section 21580 provides the process for handling incomplete application packages, including the requirement that the EA notice and conduct an informational meeting within 30 days after deeming a previously submitted incomplete application package as complete and correct. Depending on when the previously submitted incomplete permit is found complete and correct by the EA, it is possible that the informational hearing would be conducted after 60 days of receipt of the application.
21650(e) and (g)(7)	60-28	Please see commenter 60-28 comments regarding Section 21563(d)(4).	Please see response to commenter 60-28 regarding Section 21563(d)(4).
21650(g)	60-16	Maintain the 150 days for Enforcement Agencies and CIWMB to issue a new or revised Solid Waste Facility Permit. Under current regulations, a new or revised Solid Waste Facility Permit (SWFP) is issued to an applicant within 150 days of the enforcement agency (EA) receiving an application. Under the proposed regulations, an additional 30 days would be added to the 150 days in order to allow the EA to hold an informational meeting upon filing the application as complete and correct. We believe the existing timeframe of 150 days is already lengthy and adding 30 days to the permitting process is unreasonable and hinders our ability to efficiently operate a landfill and to meet the disposal needs of our serving communities. While we are not asking the CIWMB to shorten the permitting process to less than 150 days, we are asking the CIWMB to maintain the 150 days by shortening the 60 days as outlined in proposed §21650(g), Title 27 of the California Code of Regulations (CCR) to 30 days. During this timeframe, the EA is drafting the proposed SWFP for Board consideration. We believe it does not require 60 days for an EA to draft a proposed SWFP considering that the majority of the permits are less than five pages long and follows a template that is provided by the CIWMB. Thirty days is more than adequate for the EA to complete this task. Section 10303(a)(1), Title 27 CCR states that the EA "*shall determine within 30 calendar days of receipt whether or not an application for a Solid Waste Faclities Permit is* ***complete***." Public Resources Code §44008(a) then states, "*A decision to issue or not issue the permit shall be made by the enforcement agency within 120*	The 180-day timeframe includes 30 days for the RFI amendment process. However, nothing in the existing or proposed regulations precludes an operator from applying directly for a modified or revised permit. If it is mutually determined through discussion between the operator and EA that a change is subject to a modified or revised permit process, the operator has the choice of going directly to the appropriate process. The operator would still need to apply 180 days prior to making the change.

		*days from the date that the application is deemed **complete** pursuant to …".* The EA's decision to file the application package is made prior to holding the informational meeting. Proposed §21660.2 states, *"The informational meeting shall be held **after** acceptance of the application package as complete and **correct** by the EA and within 60 days of receipt of the application by the EA. The EA shall submit to the board a copy of the informational meeting notice at time of issuance. The board shall post the notice on its web site as a way to further inform the public."* It is clear that extending the permitting process to 180 days would conflict with Public Resources Code §44008(a) and §10303(a)(1), Title 27 CCR.	
21650(g) (6)	60-08	The proposal does not reflect the possibility that an EA could accept a permit application as complete and correct, but deny a permit. See, e.g., 21650(g) (6).	The proposed regulations were not edited since PRC Section 44300 already lays out the bases for denial of a permit by the EA as well as the hearing process that can be requested by the facility operator who was the denied the permit.
21660	60-08	In general, the CIWMB should avoid regulations that impose new mandatory duties on LEAs, because every mandatory duty increases the risk the EA will be exposed to litigation seeking damages allegedly caused by an LEA's failure to perform that mandatory duty. Exposure to liability and to the costs of litigation in turn will make existing and potential LEAs less willing to take on or to continue implementing this program. Proposal 2006-34 would create a new mandatory duty for LEAs to provide notifications to other agencies concerning applications "for tracking purposes." (E.g., 21660.1(b).) If that kind of notice is needed, it should be arranged as an administrative matter; there is no need for a mandatory regulation. The phrasing of mandatory duties that are retained is also important. For example the current proposal requires the EA to conduct an informational meeting "for all new and revised solid waste facility permit applications." (21660.2.) This opens the door to litigation based on a LEAs failure to conduct an allegedly mandatory meeting, by anyone who wants to dispute the LEA's determination of the significance of a change at a facility. Different wording could be used, that would require the LEA to conduct this meeting only <u>if it determined</u> there was a significant change at issue. The difference is subtle but important.	The proposed regulations are trying to balance the need to provide opportunity for the public to be better informed of new facilities and changes at existing facilities proposed by operators with the level of additional noticing needed to be provided by EAs. Providing opportunities for the public to be better informed is one of the key elements in addressing environmental justice and consistent with the intent of AB1497, and adheres with Cal-EPA's Intra-Agency Environmental Justice Strategy's goals: 1) ensure meaningful public participation and promote community capacity-building to allow communities to effectively participate in environmental decision-making processes, and 2) Integrate environmental justice into the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.
21660(a)(2)	60-13 60-25 60-26	<u>*Specific Request*</u> – Expand the subsection to read as follows: "The EA shall mail written notice of an application to every person who has submitted a written request for such notice *within 10 days prior to the EA taking action pursuant to Sections 21666(a) or 21650(a)."* <u>*Discussion*</u> – This added language above will help address our concerns expressed in item 1 *(under section 21563(d)(2))* by ensuring timely notice to concerned residents.	Section 21660(a)(2) was edited to add a "time certain" for EAs to send a written notice to people who have requested this information. Requiring the EA to mail the written notice five days after receiving the application for modified, revised, and new permits to those that have requested such a notice in writing, gives the EA five days to write the notice while clarifying when the notice should be provided. For RFI amendments, the EA is required to mail the written notice within five days after approving the application for an RFI amendment. Ideally all noticing protocols should be similar, but because RFI amendments are processed differently than permits, a different noticing process is proposed for RFI amendments than for new, revised, and modified permits. In particular, RFI amendments have a shorter, 30-day process time whereas new, revised and modified permits have a 180-day

			process; RFI amendments are approved by the EA without Board concurrence whereas new, revised, and modified permits require Board concurrence; and RFI amendments require the EA to determine that the amendments are consistent with CEQA, State minimum standards, and the terms and conditions in the current permit whereas new, revised and modified permit applications might not meet some of these criteria and would require additional review and findings from the EA and Board.
21660(a)(2)	60-12 60-29	One of the overarching purposes of this rulemaking is to provide greater transparency in the permitting/regulatory process. A key aspect of such transparency is the ability of persons that may be impacted by a potential change at a facility/operation to have a reasonable opportunity to <u>first</u> know that such changes may be occurring. The proposed regulations include a number of new and modified notice provisions, including in particular, the extension of notice requirements to the RFI amendment process. As a practical matter, most RFI amendments are likely to include relatively modest changes to facility and it therefore may not be necessary or desirable to extend the rather broad notice requirements to such amendments. At a minimum, however, notice of RFI Amendments should be required to those persons who have specifically requested such in writing to the LEA.	Please see response to commenters 60-13, 60-25, and 60-26 regarding Section 21660(a)(2). The proposed regulations are trying to balance the need to provide opportunity for the public to be better informed of changes proposed by operators at existing facilities with the level of additional noticing needed to be provided by EAs, recognizing there are changes that are less than significant in design and operation that are consistent with the permit terms and conditions. The new noticing requirements proposed for RFI amendments are less than those for a modified, revised or new permit and consist of the operator posting a notice at the facility entrance <u>and</u> the EA posting the notice on the local jurisdiction's public notice board <u>or</u> EA's web site <u>or</u> Board's web site <u>or</u> the operator's web site. While RFI amendments tend to be administrative in nature, there have been instances where the changes were of greater concern, such as an amendment to an RFI at a landfill that triggered the legislation, AB 1497. The noticing requirements for modified permits are less than those for revised and new permits, and do <u>not</u> include 1) noticing the governing body of the jurisdiction where the facility is located and 2) noticing the State Assembly Member and State Senator in whose district the facility is located. The additional public noticing in Section 21660.1 for RFI amendments and Section 21660.3 for modified permits increases the opportunity for the public to be better informed of changes proposed by operators, which is one of the key elements in addressing environmental justice and consistent with the intent of AB1497, and adheres with Cal-EPA's Intra-Agency Environmental Justice Strategy's goals: 1) ensure meaningful public participation and promote community capacity-building to allow communities to effectively participate in environmental decision-making processes, and 2) Integrate environmental justice into the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.
21660.1	60-05 PH-04 60-15	Do not support the requirement of postings or notices for RFI amendments. (Title 27, Section 21660). <u>Public Hearing Comment</u> And just in terms of the public noticing for RFI amendments, I just think I have a few comments coming from the Bay Area LEAs that it just seems like it's at so much of a low level that it doesn't need noticing on that. Revised permits, maybe new permits, totally appropriate. And, of course, you always have to realize locals that are going to know the problem. I've had so many people come to me and say we've had to do the 1497 hearing. We had zero people show up. We had two people show up. So you have to look at the impact LEAs are going to have in the office too.	Please see response to commenters 60-12 and 60-29 regarding Section 21660(a)(2).

21660.1	60-06 PH-08	We are also supportive of the additional noticing requirements for proposed modified permits and new and revised permits as well as the informational meeting requirements for new and revised permits. These additional requirements will give the community we serve an opportunity to be better informed about the operations at the solid waste facilities in their community as well as the responsibilities and duties of a solid waste local enforcement agency. We do not see a need for the noticing requirements for amendments to the Report of Facility Information (RFI). These amendments are more administrative in nature and do not require any changes to the solid waste facility permit. <u>Public Hearing Comment</u> Noticing requirements, I think they're a great idea. We'll have to get busy on our website. But why I think it's important for modified and new and revised permits, I don't think it's really necessary to the extent it's laid out in the regulations for an RFI amendment. That's a short process, a 30-day process. I just don't think that's meant to have that kind of degree of noticing. Is sounds easy, but it's still work to get it on the website. It's still work for the operator to put that information out. It's supposed to be a short process. Sometimes we like to do it within a week, but we have to extend it to meet that noticing requirement. We just say remove it for the amendments.	Please see response to commenters 60-12 and 60-29 regarding Section 21660(a)(2).
21660.1	60-22	The LEA does not support the proposed noticing for RFI and permit modification applications. The time-line is too short and the changes may be insignificant and not benefit the public. Our records are already subject to the Public Information Act.	Please see response to commenters 60-12 and 60-29 regarding Section 21660(a)(2).
21660.1	60-08	The proposed regulations impose new notice requirements even where a proposed change at a facility is determined by the EA not to be a "significant" change for purposes of PRC 44004(a). (21660.1) Once that determination is made, however, there is no basis in the PRC or in AB 1497 for imposing a notice requirement on EAs. The requirement for this notice by the EA should be dropped. If the regulations continue to require that the EA provide some form of notice, the regulations should be amended (or supplemented with policy) so that EAs know what to say about how comments can be submitted. There is currently no provision in the regulations to answer that question; the assumption appears to be that if an EA does not conduct an informational meeting, it will either accept comments in some other way, or will provide notice of a comment opportunity that the CIWMB will provide.	Please see response to commenters 60-12 and 60-29 regarding Section 21660(a)(2). To provide the Board with a better understanding of informational meeting comments and to place the comments in the record of approval as well as any written comments received, and, where applicable, any steps that were taken by the EA in response to those comments, A requirement was added to Section 21650(g)(5) that the EA include with the accepted application package that is submitted to the Board, in addition to written public comments received, "… a summary of comments received at the informational meeting and, where applicable, any steps taken by the EA relative to those comments." Board staff already asks EAs for this information currently when writing agenda items for the Board meeting. This information assists the Board in determining what general actions if any might be needed to meet EJ objectives. Guidance will be developed for the EA after the regulations are adopted on how they may wish to handle comments received in writing or orally at the informational meeting.
21660.1(a)(5)	60-03	The inclusion of the "Date by which the EA is required to act upon the RFI amendment or the solid waste facilities permit modification" is problematic and should be removed. It does not take into account the applicants' ability to waive their statutory timeline pursuant to Public Resources Code 44009. In addition, an EA could process an RFI or Permit Modification earlier than the posted date. To require a "date certain" for LEA action implies the public can comment up to that date. However, an LEA can process an application prior to that "date certain"	The content in Section 21660.1(a) of the EA noticing requirement was edited by combining requirement (5) that it include the "date by which the EA is required to act upon the RFI amendment or the solid waste facilities permit modification" and (6) the "EA finding or preliminary finding pursuant to Section 21665(c)(1)" so that it reads: "Date application was approved by the EA and EA's finding pursuant to Section 21665(c)." Because of the short, 30-day process time for RFI amendments, including acceptance/rejection and approval/denial of the application, staff concluded that the appropriate time for the EA to post the notice is within 5 days

		thereby causing confusion to the public.	after the EA accepting/approving the application. Thus, the EA would not be providing information prior to taking action, but after finding the application meets the requirements of Section 21665(c) and is approved. This will reduce the need to notice applications that are determined to be incomplete or incorrect and are rejected, or where the LEA determined that the findings could not be made and the application was denied. The proposed regulations originally combined the noticing requirements for RFI amendments and modified permits together in Section 21660.1, but because of the processing differences between the two and that modified permits are processed similar to new and revised permits, modified permits were removed from this section and added to Section 21660.3 "Notice for New and Revised Permit Applications." Section 21650(e) requires the EA to post the notice for modified permits after finding the permit application complete and correct and within 60 days of receipt of the application. For new and revised permits, Section 21650(e) requires the EA to notice and conduct an informational meeting after finding the application complete and correct and within 60 days of receipt of the application.
21660.1(a)(6)	60-03	A fundamental problem with this requirement is if the publication is required to be posted 10 days prior to an EA taking action, how can the publication contain an EA finding? The operator is to prepare and post the publication at the time the application is submitted to the EA (per 21660.1(b)) Also, the referenced finding, §21665(c)(1), deals with RFI amendments only and does not appear to apply to a new, modification or revised permit.	Please see response to commenter 60-03 regarding Section 21660.1(a)(5).
21660.1(a)(6)	60-16	We suggest supplementing additional language in §21660.1(a)(6) to reference EA findings for the Modified Permit process: *(6) EA finding or preliminary finding pursuant to §21665(c)(1)* ***or*** *§21665(d)(1) .*	Please see response to commenter 60-03 regarding Section 21660.1(a)(5).
21660.1(a)(6)	60-07	The Noticing requirements for RFI amendments and Modified SWFPs include providing information for the availability of appeals pursuant to Public Resources Code (PRC) section 44307. This section of the PRC refers to a challenge that a *SWFP* imposes conditions that are inappropriate, as contended by the applicant. This language should be removed.	To address the concern that the public could mistakenly think that non-formal actions taken by the EA would be subject to a PRC Section 44307 appeal, the proposed regulations clarify in Sections 21660.1(a)(6), 21660.3(a)(10) and 21660.4(a)(9) that the noticing on the availability of an appeal process pursuant to PRC Section 44307 applies only to formal discretionary action taken by the EA with regard to the application (i.e., approving RFI amendments or later issuing or denying a modified, revised, or new permit). Pursuant to PRC Section 44307, a hearing can be requested not only by the applicant that is subject to the action, but any person can petition the EA to conduct a hearing. Because the notice for an RFI amendment would be distributed after the EA has already approved the amendment, the notice would announce that the EA's approval is subject to a PRC 44307 appeal in Section 21660.1(a)(6). The notice for new, revised, or modified permits would be announcing that at a later date when the EA issues or denies the permit, this formal action would be subject to a PRC Section 44307 appeal in Section 21660.3(a)(10) and Section 21660.4(a)(9) for substituted meetings. The proposed regulations originally combined the noticing requirements for RFI amendment and modified permits together in Section 21660.1, but because of the processing differences between the two and that modified permits are processed

			similar to new and revised permits, modified permits were removed from this section and added it to Section 21660.3 Notice for New and Revised Permit Applications. Section 21650(e) requires the EA to post the notice for modified permits after finding the permit application complete and correct and within 60 days of receipt of the application. For new and revised permits, Section 21650(e) requires the EA to notice and conduct an informational meeting after finding the application complete and correct and within 60 days of receipt of the application. Providing the public a heads-up about upcoming changes proposed at a solid waste facility as well as the process for permitting those changes, including the availability to appeal the issuance or denial of a permit, is consistent with the intent of AB 1497 to provide additional opportunities for public involvement and adheres with Cal-EPA's Intra-Agency Environmental Justice Strategy's goals: 1) ensure meaningful public participation and promote community capacity-building to allow communities to effectively participate in environmental decision-making processes, and 2) Integrate environmental justice into the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.
21660.1(a)(6)	60-06	We also oppose requiring under the noticing requirements the availability of appeals pursuant to Public Resources Code §44307. The noticing is to provide information on an application that has been received and/or an informational meeting that will be conducted. At this point in the permitting process there has not been per PRC §44307 an alleged failure of the LEA to act as required by law or regulations. The LEA at least needs to take a discretionary action before there can be a dispute that there was some kind of failure to act as required by law or regulation. As an alternative, we suggest that that the availability of appeals be placed in §21660.2, to be provided during the informational meetings for revised or new permits.	Please see response to commenter 60-07 regarding Section 21660.1(a)(6).
21660.1(a)(6)	60-08	All LEA determinations concerning the classification of applications for processing purposes are interim decisions that do not finally determine the rights of an applicant, whether a permit will be granted or denied, or how a permit may be conditioned. These regulations should make it clear that these interim, procedural LEA determinations are <u>not</u> subject to appeal. The LEA recommends that sections 21660.1 (a) (7), 21660.3 (a) (11), and 21660.4 (a) (10) be deleted. Requiring the LEA to provide information on the availability of appeals in the circumstances addressed by those sections would make the determination subject to an appeal. The LEA determines that an application is complete, the classification of a proposed change for processing purposes, and/or the notice that an information hearing will be held should not be subject to appeal. The LEA has not taken an action at this point except to receive the application, classify the change, and notice a meeting. An appeal is premature. PRC 44300 provides for appeals of permit denials, suspensions and revocations, not for appeals of interim decisions that are a part of the permitting process. These regulations should therefore not refer to or purport to create any right to interim appeals of EA classification decisions. Instead, notice of appeal rights should be provided only when action has been taken to grant and to specifically condition, or to deny, a permit or permit modification. Allowing appeals of intermediate EA determinations would give an applicant and possibly the public, too much leverage	Please see response to commenter 60-07 regarding Section 21660.1(a)(6).

		over the permitting process.	
21660.1(b)	60-17	The Regulations Fail to Require Translation and Actual Notice. AB 1497 authorizes the CIWMB to provide actual personal notice to residents living within a distance other than 300 feet from the facility. Pub. Res. Code § 44004(h). The bill also authorizes the enforcement agency to translate notices. Pub. Res. Code § 44004(h)(1)©. However, the CIWMB regulations fail to require actual notice or translation. 27 CCR § 21660.1(b); 27 CCR 21660.2(c)(3). The proposed regulations omit any mention of actual notice relying on fence-line notices as well as postings to website. However, many residents living in small rural areas hosting solid waste facilities do not have access to the internet. Furthermore, the regulations leave it entirely to the discretion of the enforcement agency to translate notices as an additional measure to encourage public attendance at the informational meeting. Translation should not be considered an additional measure to increase public attendance. Rather, it should be considered a primary source of outreach, especially in communities which are predominantly non-English speaking.	PRC Section 44004 applies to significant changes in the design or operation of a facility proposed by an operator. Section 21660.1 deals with changes proposed by an operator that are less than significant. The proposed regulations are trying to balance the need to provide opportunity for the public to be better informed of changes proposed by operators at existing facilities with the level of additional noticing needed to be provided by EAs, recognizing there are changes that are less than significant in design and operation that are consistent with the permit terms and conditions. The new noticing requirements for RFI amendments are less than those for a modified, revised or new permit and consist of the operator posting a notice at the facility entrance and the EA posting the notice on the local jurisdiction's public notice board or EA's web site or Board's web site or the operator's web site. Currently, the EA is not obligated to notice RFI amendments, except under the general requirement of mailing a written notice of an application to every person who has submitted a written request for such notice. The proposed regulations originally combined the noticing requirements for RFI amendments and modified permits together in Section 21660.1, but because of the processing differences between the two and that modified permits are processed similar to new and revised permits, modified permits were removed from this section and added to Section 21660.3 "Notice for New and Revised Permit Applications." The proposed regulations require that for new and revised permits the EA post the notice in the manner set forth in Government Code Section 65091, which requires the EA to notice 1) the owner of the subject property; 2) each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project; 3) the owners of property within 300 feet of the subject property or post a notice in a newspaper of general circulation if there are more than 1,000 owners of property within 300 feet of the subject property, and 4) either post the notice in three public locations (at least one of which must be directly affected by the proposed project) or publish the notice in a newspaper of general circulation. With the move of modified permits into Section 21660.3, the EA is required to meet the same noticing requirements for modified permits except in two areas: 1) noticing the governing body of the jurisdiction where the facility is located and 2) noticing the State Assembly Member and State Senator in whose district the facility is located. With regard to translating the notice, PRC Section 44004 does not require translation, only that the EA consider EJ issues when preparing and distributing the notice to ensure that the notice is concise and understandable for limited English (not non-English) speaking populations. The proposed regulations authorize the EA to provide translation as an additional measure that may be undertaken to increase public noticing for new, revised, and modified permits. Other additional measures that may be undertaken by the EA to increase noticing for new, revised, and modified permits include posting the notice in a local newspaper of general circulation and noticing beyond 300 feet if the nearest residence or business is not within 300 feet of the site. Additional measures that can be undertaken by the EA to increase noticing and improve EJ outreach will be promoted in planned EA guidance and training on noticing and informational

			meetings.
21660.1(b)	60-21	The proposal of additional requirements such as the Operator posting a temporary notice at the facility entrance and the EA required posting of a notice on an EA "notice board", website, Operator website and/or CIWMB website is unnecessary.	The proposed regulations are trying to balance the need to provide opportunity for the public to be better informed of changes proposed by operators at existing facilities with the level of additional noticing needed to be provided by EAs, recognizing there are changes that are less than significant in design and operation that are consistent with the permit terms and conditions. The new noticing requirements proposed for RFI amendments are less than those for a modified, revised or new permit and consist of the operator posting a notice at the facility entrance and the EA posting the notice on the local jurisdiction's public notice board or EA's web site or Board's web site or the operator's web site. While RFI amendments tend to be administrative in nature, there have been instances where the changes were of greater concern, such as an amendment to an RFI at a landfill that triggered the legislation, AB 1497. The noticing requirements for modified permits are less than those for revised and new permits, and do not include 1) noticing the governing body of the jurisdiction where the facility is located and 2) noticing the State Assembly Member and State Senator in whose district the facility is located. The additional public noticing in Section 21660.1 for RFI amendments and Section 21660.3 for modified permits increases the opportunity for the public to be better informed of changes proposed by operators, which is one of the key elements in addressing environmental justice and consistent with the intent of AB1497, and adheres with Cal-EPA's Intra-Agency Environmental Justice Strategy's goals: 1) ensure meaningful public participation and promote community capacity-building to allow communities to effectively participate in environmental decision-making processes, and 2) Integrate environmental justice into the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.
21660.1(b)	60-16	According to the proposed regulations, the operator will be responsible for preparing and posting at the time the application is submitted to the EA a temporary notice at the facility entrance that meets the requirements of §21660.1(a), Title 27 CCR. We have no objections to posting the notice at the entrance of our landfills. However, the responsibility for preparing the notice should be designated to the EA since the EA has the pertinent information required for the public notice. For example, the EA would have information on when they received the RFI amendment/SWFP modification application, date by which they are required to act on the application package, the EA's preliminary finding, information on the hearing panel process pursuant to Public Resources Code §44307, etc. As the operator, we do not have that information nor do we want to provide inaccurate information to the public. We suggest alternative language for §21660.1(b): *"In addition to the EA requirements in §21660(a), the ~~operator~~* ***EA*** *shall prepare and* ***the operator shall*** *~~post at the time~~ the ~~application is submitted to the EA a temporary~~ notice at the facility entrance that meets the requirements of §21660.1(a~~); in addition the EA shall ensure that notices are distributed for RFI amendment and solid waste facilities permit modification applications as specified below that contain information pursuant to §21660.1(a~~). The publication (in hard copy or electronically) shall occur at one or more of the following locations 10 days prior to EA taking action pursuant to §21666(a) or §21650(a):"*	The noticing time was changed from 10 days prior to the EA accepting the application to posting the notice within 5 days after the EA approves the application. This gives the operator 5 days to write the notice while clarifying when the notice should be posted. The operator would be required to post the notice for at least 10 days. Because of the short, 30-day process time for RFI amendments, including acceptance/rejection and approval/denial of the application, it was determined that the appropriate time for the operator to post the notice was after the EA had accepted/approved the application. This will reduce the need to notice applications that are determined to be incomplete or incorrect and are rejected, or where the LEA determined that the finding could not be made and the application was denied. The content of the notice was simplified by combining in Section 21660.1(a) requirement (5) that it include the "date by which the EA is required to act upon the RFI amendment or the solid waste facilities permit modification" and (6) the "EA finding or preliminary finding pursuant to Section 21665(c)(1)" so that it reads: "Date application was approved by the EA and EA's finding pursuant to Section 21665(c)." This should help focus the content to the notice to its essential elements and help to reduce workload. The proposed regulations originally combined the noticing requirements for RFI

			amendment and modified permits together in Section 21660.1, but because of the processing differences between the two and that modified permits are processed similar to new and revised permits, modified permits were removed from this section and added it to Section 21660.3 Notice for New and Revised Permit Applications. The notice for modified permits would be prepared by the EA.
21660.1(b)	60-03	The required 10 days posting prior to the EA taking action is too restrictive. It reduces the application process timeline from 30 days or 20 days. In Section 21660.1(b)(4), we suggest changing the word "accepting" on line 44 to "**acting on**" so as not to presume acceptance of the application by the EA.	Please see response to commenter 60-16 regarding Section 21660.1(b).
21660.1(b)	60-08	The proposal requires certain noticing requirements to be met 10 days before an EA "accepts" an application as complete and correct. (See flowchart following 21620; and 21660.1(b).) In other words, deadline dates that cannot be established until a permit application is accepted, must be specified before the permit is accepted. (21660.1(a) (5). This is all backwards. The LEA must accept an application as complete and correct, before it can determine whether to issue a permit, or how a permit or permit change may be conditioned. The conditions the EA ultimately determines it will impose, will in turn, under these regulations, determine whether a permit change is a "modification" that does not require an informational meeting or a "revision" that does require a meeting. Notice requirements should follow, not precede, LEA acceptance of an application. Requiring notice within 10 days of acceptance would be reasonable.	Please see response to commenter 60-03 regarding Section 21660.1(a)(5).
21660.1(b)	60-13 60-25	*Specific Request* – Add the following subsection: (5) Posting of notice prepared by the EA and posted by the operator in a local newspaper of general circulation. *Discussion* – The above language will help address our concerns expressed in item 1 *(under section 21563(d)(2))* by reaching residents that do not routinely monitor the public notice board, or the EA/operator/CIWMB websites and giving them the opportunity to comment on the proposed RFI amendment or solid waste facilities permit application.	The proposed regulations are trying to balance the level of notice with the view that there are changes that are less than significant changes in design and operation that are consistent with the permit terms and conditions. Posting in a local paper can be expensive and doesn't seem equivalent to the level of change for an RFI amendment. However, adding this as an additional measure that may be undertaken by the EA for new, revised, and modified permits in Sections 21660.2(c)(3), 21660.3(b)(4), and 21660.4(b)(4) makes sense. The proposed regulations originally combined the noticing requirements for RFI amendment and modified permits together in Section 21660.1, but because of the processing differences between the two and that modified permits are processed similar to new and revised permits, modified permits were removed from this section and added it to Section 21660.3 Notice for New and Revised Permit Applications. The proposed regulations require that for new and revised permits the EA post the notice in the manner set forth in Government Code Section 65091, which requires the EA to notice 1) the owner of the subject property; 2) each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project; 3) the owners of property within 300 feet of the subject property or post a notice in a newspaper of general circulation if there are more than 1,000 owners of property within 300 feet of the subject property, and 4) either post the notice in three public locations (at least one of which must be directly affected by the proposed project) or publish the notice in a newspaper of general circulation.

			With the move of modified permits into Section 21660.3, the EA is required to meet the same noticing requirements for modified permits except in two areas: 1) noticing the governing body of the jurisdiction where the facility is located and 2) noticing the State Assembly Member and State Senator in whose district the facility is located.
21660.2(a)	60-19	With this in mind, the CRRC supports the following elements of the proposed regulations: o The requirement for additional noticing requirements and informational meetings (hearings) for new and revised permits;	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21660.2(a)	60-06	We are also supportive of the additional noticing requirements for proposed modified permits and new and revised permits as well as the informational meeting requirements for new and revised permits. These additional requirements will give the community we serve an opportunity to be better informed about the operations at the solid waste facilities in their community as well as the responsibilities and duties of a solid waste local enforcement agency.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21660.2(a)	60-21	The Department concurs that new permits should comply with the same aforementioned requirements similar to revised permits and that language should be added to clarify that the meetings are "informational only".	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21660.2(a)	60-08	The California Integrated Waste Management Board (CIWMB) has authority to promulgate regulations to implement the Public Resources Code (PRC). Moreover, AB 1497 expressly directed the CIWMB to define the phrase "significant change in the design or operation of the solid waste facility that is not authorized by the existing permit" as used in PRC 44004(a). However, regulations must implement the applicable statute, and the PRC currently contains no requirement for a public hearing prior to EA approval of an application for a new solid waste facility permit. The statutory requirement for a hearing applies only to significant changes at already-permitted facilities. Similarly, AB 1497 does not direct that this public hearing requirement be extended to new facilities. We understand that CIWMB staff is implementing the instructions of the CIWMB Board in making this proposal for additional hearings, and we understand that the Office of Administrative Law approved CIWMB Construction & Demolition (C&D) regulations that imposed a similar requirement as an exercise of general CIWMB rulemaking authority. However, we believe that the requirement for public hearings for new permits is a duplication of the Landuse authority public hearing process. There is clearly a rational basis for the different treatment of new and revised permits that the legislature has directed. A change in design or operation at an existing facility may not require a new CEQA document, because it may not involve new impacts or significant increases in impacts that were not previously analyzed. There may also be no requirement for a new land use permit, because many older landfill use permits are written so broadly. For these changes, the EA and local authorities may therefore never be subject to a public notification	Informational public hearings are already required for new Construction, Demolition and Inert Debris (CDI) permit applications under current regulation (Title 14 sections 17383.10 and 17388.6). The Board promulgated the CDI regulations under the authority of PRC Section 40502, which requires the Board to adopt rules and regulations including minimum standards for solid waste handling and disposal that do not duplicate any requirements that are already under the authority of the State Air Resources Board or the State Water Resources Control Board (PRC Section 43020), and PRC Section 43021, which requires the regulations to include standards for the design, operation, maintenance, and ultimate reuse of solid waste facilities. The Office of Administrative Law approved these regulations in 2003. The Board directed staff to apply the CDI regulatory requirements to other solid waste facilities in order to provide consistency among different types of solid waste facilities. The proposed regulations in Section 21660.2(a) are consistent with the CDI regulations and the Board's direction. The informational meeting requirement for new <u>full</u> permits is not a duplication of the land use public hearing process or CEQA. Land use entitlements are not always issued for every solid waste facility and public hearings either are not held in every case, were held years ago, or may be too broad in scope and may not address the issues associated with a solid waste facility. In these cases, the informational meeting would not be duplicating a land use hearing. Where a local land use hearing has been held, is not dated, and is not too broad in scope, the proposed regulations allow the EA to substitute, for a new informational meeting <u>if the applicant does not object</u>, a comparable public hearing that was held within the year. In the case of CEQA, not every solid waste facilities permit will have gone through a CEQA process. Also, the CEQA process includes public notice requirements, but does not include a public hearing. The informational meeting requirement for new full permits should be retained to

		requirement, and may never be exposed to local community comments, unless a notice requirement or a hearing requirement is imposed. This makes a mandated local informational meeting important. In contrast, for a new facility, there will be a CEQA document and related public notice requirements, and there will typically also be a local land use approval process that includes notice and comment procedures. This draft proposes to mandate more hearings than the law requires, by expanding the scope of these proposed regulations. A desire for consistency with CIWMB regulations for C&D facilities is not an adequate justification to set aside the categorical statutory distinction made in the statute, especially where imposing a non-mandatory requirement would be inconsistent with a rational distinction the legislature made when these PRC provisions were enacted. The CIWMB should take into account that the legislature effectively confirmed that distinction in AB 1497, which revisited this issue area but did not impose a hearing requirement for new facility permits. CIWMB staff's expectation that most of these hearings can be piggybacked onto land use or CEQA hearings is unlikely to be met in practice. It is important that CEQA hearings and land use hearing not prejudge whether a facility permit will be issued. In contrast, these public information hearings presume that the LEA will forward a proposed permit change to the CIWMB. AB 1497 did not authorize or direct the CIWMB to develop regulations to require public information hearings for new facility permits. Proposal 2006-34 should therefore be revised to eliminate the new, non-statutory, requirement for a public informational meeting for new facility permits.	increase the opportunity for the public to be better informed of new facilities proposed by operators, which is one of the key elements in addressing environmental justice and consistent with the intent of AB1497, and adheres with Cal-EPA's Intra-Agency Environmental Justice Strategy's goals: 1) ensure meaningful public participation and promote community capacity-building to allow communities to effectively participate in environmental decision-making processes, and 2) Integrate environmental justice into the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies. Sections 21660.2, 18104.2(e), and 18105.2(f)(2) were edited to delete the requirement that informational meetings be conducted for new registration and standardized permits, but continue to require noticing of these permits. Every time there is a change at a site with these types of permits, a new permit is required since the existing permit cannot be modified or revised. This means every change to a permit could require an informational meeting if the requirement is not deleted from the proposed regulations. In the case of registration permits, they are ministerial approvals. The EA has 30 days to find the application for a registration permit complete and correct, and to accept it for filing, leaving little time for holding an informational meeting. Continuing to require noticing, on the other hand, does not interfere with the shorter process times while still providing the public a heads-up about upcoming changes at a solid waste facility. The level of noticing would be the same as for a modified permit, including notifying owners of property within 300 feet of the subject property, or posting in a newspaper of general circulation if there are more than 1,000 owners of property within 300 feet.
21660.2(a)	60-10 PH-09	However, several provisions are of great concern to us. The first pertains to the additional requirements for public noticing and informational meetings. While we support inclusion of public comment in the decision-making process, based upon our experience with AB 1497 hearings, we believe that the additional requirements are unnecessarily burdensome when compared to the perceived benefits derived. Noticing the public requires the LEA to compose, translate, post and publish the notice and in many cases, to hold a meeting. These tasks, while seemingly innocuous, are extremely time consuming for small LEAs. This burden would be even heavier if the noticing/hearing requiremetns were expanded beyond AB 1497 to include the additional facility and permit types contained in the proposed regulations. Several rural LEAs have conducted AB 1497 hearings thus far. Public turnout has been dismal ranging from zero to only a couple of attendees. The Southcentral LEA Roundtable would support additional public noticing for new full Solid Waste Facilities Permits only, and only in two limited circumstances. First, if the CEQA hearing folr the project occured more than one year prior to the LEA deeming the permit application complete and correct. Second, if local interest in the project warranted additional noticing or meetings. For example, if a project were appealed from the Planning Commission level to a higher local governing authority such as the Board of Supervisors.	Please see response to commenter 60-08 regarding Section 21660.2(a).

21660.2(a)	PH-08	There's one thing that nobody has mentioned yet. There's a requirement for informational meetings on, you know, new permits or revised permits. But also standardized permits and registration permits can be new and revised. And the whole process of informational meetings and the whole thing shouldn't be meant for standardized and registration permits. They're really meant for full permit. AB 1497 was focused on revised permits, full permits. It wasn't focused on registration or standardized. Standardized and registration permits from the Board was meant to be a shorter process, you know, for facilities that have less significant issues. And so to slow down that permit process to have an informational meeting I think defeats the purpose of why we have standardized and registration permits. The time frames are all shorter. So let's just keep it with revised permits and new permits require an informational meeting. We still have all the noticing requirements that we can go with standardized and registration, but let's take that out. I think it costs a lot of money for LEA resources and it costs the operator lots of money. So we don't need that.	Sections 21660.2, 18104.2(e), and 18105.2(f)(2) were edited to delete the requirement that informational meetings be conducted for new registration and standardized permits, but continue to require noticing of these permits. Every time there is a change at a site with these types of permits, a new permit is required since the existing permit cannot be modified or revised. This means every change to a permit could require an informational meeting if the requirement is not deleted from the proposed regulations. In the case of registration permits, they are ministerial approvals. The EA has 30 days to find the application for a registration permit complete and correct, and to accept it for filing, leaving little time for holding an informational meeting. Continuing to require noticing, on the other hand, does not interfere with the shorter process times while still providing the public a heads-up about upcoming changes at a solid waste facility. The level of noticing would be the same as for a modified permit, including notifying owners of property within 300 feet of the subject property, or posting in a newspaper of general circulation if there are more than 1,000 owners of property within 300 feet.
21660.2(a)	60-21	The Department concurs that the EA should be allowed to combine the informational meeting with another public meeting or substitute a previous public meeting/hearing. Operators should not be required to pay for meeting costs.	The authority for the EA to charge an operator for the cost of providing the informational meeting is provided in AB 1497, PRC Section 44004(h)(1)(B). Authority is also provided in PRC sections 43213 and 44006(c). This new regulation is consistent with Section 21570(c), which requires each application for a permit submitted to the EA, and clarifies that the authority to charge a fee is applicable to the notice and meeting requirements. It is also consistent with the CDI regulations that require a public hearing for new permit applications (Title 14 sections 17383.10(a) and 17388.6(a)), which authorize the EA to require the operator to pay all costs incurred by the EA in connection with the hearing. This provision is necessary to provide consistency among different types of solid waste facilities.
21660.2(a)	60-17	Please see commenter 60-17 comments regarding Section 21563(d)(4).	Please see response to commenter 60-17 regarding Section 21563(d)(4).
21660.2(a)	60-08	Please see commenter 69-08 comments regarding Section 21660.	Please see response to commenter 60-08 regarding Section 21660.
21660.2(b)	60-20	Under certain situations, operators should be allowed to waive the time limit when the informational meeting must be conducted. One example of this need would be to allow the applicant to combine this required hearing with the required CEQA scoping meeting.	PRC Section 44004(h)(1)(A) as amended by AB 1497 requires the EA to hold a public hearing (i.e., informational meeting) within 60 days of receiving an application for a revised permit. This time can only be extended if the application received is incomplete. In this case, Section 21580 requires the EA to notice and conduct an informational meeting within 30 days after deeming the application complete and correct. Consistent with the intent of AB 1497, the time for the EA conducting an informational meeting is early in the process, prior to the EA making a determination on the permit application, affording the public an early opportunity to be better informed of changes proposed by operators at solid waste facilities.
21660.2(b)	60-28	Please see commenter 60-28 comments regarding Section 21563(d)(4).	Please see response to commenter 60-28 regarding Section 21563(d)(4).
21660.2(b)	60-08	Section 21660.2 does not take in to account the reality that applicants extend statutory deadlines for LEA action after permit applications are accepted as complete and correct... Provision should be made for extending the deadline for holding informational meetings in these cases.	Please see response to commenter 60-20 regarding Section 21660.2(b).
21660.2(c)	60-21	The Department does not believe that it is necessary to have additional restrictions	Section 21660.2(c)(1) was edited to clarify that the EA is allowed to designate an

(1)		on meetings being held no more than 5 miles from the facility on a date/time when residents can attend. In some instances, an adequate facility for the meeting may not exist within the 5-mile requirement.	alternative suitable location that is as close to the facility as reasonably practical if the location is not only suitable, but also "available." Based on comments received, the 5-mile restriction on location was reduced down to 1 mile from the facility that is the subject of the meeting. Reducing the location down to 1mile should help to ensure that the meeting location is conveniently located in urban areas, such as in Southern California. This should help facilitate attendance by residents, including those that rely on public transportation. If a suitable and available location cannot be found within 1 mile, which for example may be the case in some rural situations, the EA can designate an alternative suitable location that is as close to the facility as reasonably practical.
21660.2(c) (1)	60-13 60-25	*Specific Request* – Change the proposed five mile radius to one mile radius. Revise the subsection to read as follows: "The meeting shall be held in a suitable location not more than **one mile** from the facility that is the subject of the meeting; provided that, if no suitable location exists within **one mile** of the facility, as determined by the EA, the EA may designate an alternative suitable location that is as close to the facility as reasonably practical." *Discussion* – The above language will help address our concerns expressed in item 1 *(under section 21563(d)(2))* by ensuring the meeting location is conveniently located. The five mile radius is too far away from the facility location, and may potentially place most residents outside of the host jurisdiction, especially in urban areas such as Southern California. Additionally, if the five mile radius limit is adopted, those residents living in the opposite direction of the facility would need to commute up to 10 miles to reach the meeting location. Not only would this be inconvenient, but discourage those residents which rely on public transportation from attending the meeting due to its distant location.	Please see response to commenter 60-21 regarding Section 21660.2(c)(1).
21660.2(c) (3)	60-17	Please see commenter 60-17 comment regarding Section 21660.1(b).	Please see response to commenter 60-17 regarding Section 21660.1(b).
21660.2(c) (3)	PH-08	The one last thing I just want to mention, even though it's kind of mentioned in the regs, kind of between the lines, the Government Code that requires noticing within 300 feet of property boundary, landfills a lot of times have the community that's impacted beyond 300 feet. And it's a cost to the operators to do the noticing, but I think there needs to be a little bit more language in the regulations that give more power to the LEA to say, look, yes, it says 300 feet, but we have a community at 600 feet. We need to notice. If it's going to cost some money to notice, that's the way it is. We need to be transparent. I think a lot of our operators especially I feel the operators in Orange County will go along with that because we all want to be transparent and be up front with what's going on. But I'm always looking for the worst case scenario, and I want to make sure it's clear the LEA has the ability to require further noticing if reasonable based on the community that's impacted.	Sections 21660.2(c)(3), 21660.3(b)(4), and 21660.4(b)(4) have been edited to include as an additional measure for new, revised and modified permits that the EA may undertake "additional noticing beyond 300 feet if the nearest residence or business is not within 300 feet of the site." In suburban and rural communities adjacent landfills usually are not within 300 feet of the property boundary. The proposed regulations originally combined the noticing requirements for RFI amendment and modified permits together in Section 21660.1, but because of the processing differences between the two and that modified permits are processed similar to new and revised permits, modified permits were removed from this section and added it to Section 21660.3 Notice for New and Revised Permit Applications. The proposed regulations require that for new and revised permits the EA post the notice in the manner set forth in Government Code Section 65091, which requires the EA to notice 1) the owner of the subject property; 2) each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project; 3) the owners of property within 300 feet of the subject property or post a notice in a newspaper of general circulation if there are more than 1,000 owners of property within 300 feet of the subject property, and 4)

			either post the notice in three public locations (at least one of which must be directly affected by the proposed project) or publish the notice in a newspaper of general circulation. With the move of modified permits into Section 21660.3, the EA is required to meet the same noticing requirements for modified permits except in two areas: 1) noticing the governing body of the jurisdiction where the facility is located and 2) noticing the State Assembly Member and State Senator in whose district the facility is located.
21660.3(a)	60-19	Please see commenter 60-19 comments regarding Section 21660.2(a).	Please see response to commenter 60-19 regarding Section 21660.2(a).
21660.3(a)	60-06	Please see commenter 60-06 comments regarding Section 21660.2(a).	Please see response to commenter 60-06 regarding Section 21660.2(a).
21660.3(a)	60-21	Please see commenter 60-21 comments regarding Section 21660.2(a).	Please see response to commenter 60-21 regarding Section 21660.2(a).
21660.3(a)	60-08	Please see commenter 60-08 comments regarding Section 21660.2(a).	Please see response to commenter 60-08 regarding Section 21660.2(a).
21660.3(a)	60-10 PH-09	Please see commenter 60-10 comments regarding Section 21660.2(a).	Please see response to commenter 60-10 regarding Section 21660.2(a).
21660.3(a) (4)	60-24	Change wording to state, "Date the EA <u>received</u> the solid waste facilities permit revision/new permit application."	The suggested edit was not made since the key determinate for when an informational meeting should be conducted is the date the EA accepted the permit application as complete and correct. The EA will need to hold an informational meeting within 60 days of receiving the application and within 30 days of finding the application package complete and correct, unless it was received as incomplete. Section 21580 provides the process for handling incomplete application packages, including the requirement that the EA notice and conduct an informational meeting within 30 days after deeming a previously submitted incomplete application package as complete and correct. Depending on when the previously submitted incomplete permit is found complete and correct by the EA, it is possible that the informational hearing would be conducted after 60 days of receipt of the application.
21660.3(a) (6)	60-08	Please see commenter 60-08 comments regarding Section 21620 flow diagram.	Please see response to commenter 60-08 regarding Section 21620 flow diagram.
21660.3(a) (7)	60-03	Please see commenter 60-03 comments regarding Section 21660.1(a)(6).	Please see response to commenter 60-03 regarding Section 21660.1(a)(5).
21660.3(a) (7)	60-03	The referenced finding, §21665(c)(1), deals with RFI amendments and is therefore not applicable as this section deals with Notice of New and Revised Permit Application and Enforcement Agency Conducted Information Meeting.	Section 21660.3(a)(7), "EA finding pursuant to Section 21665(c)(1)" was deleted.
21660.3(a) (7)	60-08	The reference in 21660.3(a) (7) to 21665(c) (1) appears to be incorrect.	Please see response to commenter 60-03 regarding Section 21660.3(a)(7).
21660.3(a) (7)	60-16	IWMD suggests deleting §21660.3(a)(7) which references §21665(c)(1). §21665(c)(1) is in reference to RFI amendments and insinuates that in order to process a new SWFP application or to revise the SWFP, no additional CEQA will be prepared or the CEQA process has been completed. In some circumstances, at the time the operator submits the application to the EA, CEQA has yet to be completed. Therefore, to reference §21665(c)(1) would conflict with §21570(f)(3)(B).	Please see response to commenter 60-03 regarding Section 21660.3(a)(7).

21660.3(a)(10)	60-07	The Noticing requirements for Informational Meetings for Revised SWFPs include providing information for the availability of appeals pursuant to PRC section 44307. The purpose for this meeting is to inform the public of a permit revision. No decision is made at this meeting. Why would we include the appeal process? This notification is provided to the applicant when the LEA has sent the proposed SWFP to the CIWMB for concurrence. This language should be removed.	Please see response to commenter 60-07 regarding Section 21660.1(a)(6).
21660.3(a)(10)	60-06	Please see commenter 60-06 comments regarding Section 21660.1(a)(6).	Please see response to commenter 60-07 regarding Section 21660.1(a)(6).
21660.3(a)(10)	60-08	Please see commenter 60-08 comments regarding Section 21660.1(a)(6).	Please see response to commenter 60-07 regarding Section 21660.1(a)(6).
21660.3(b)	60-17	Please see commenter 60-17 comment regarding Section 21660.1(b).	Please see response to commenter 60-17 regarding Section 21660.1(b).
21660.3(b)	60-21	The Department believes that the current public notice and informational meeting requirements of the EA sending written notice to property owners within 300 feet of the site and to a newspaper (or posting at three public places) is sufficient. The proposal of additional requirements such as the Operator posting a temporary notice at the facility entrance and the EA required posting of a notice on an EA "notice board", website, Operator website and/or CIWMB website is unnecessary. The Department concurs that new permits should comply with the same aforementioned requirements similar to revised permits and that language should be added to clarify that the meetings are "informational only".	The proposed regulations require that for new and revised permits the EA post a notice on the EA's or the local jurisdiction's public notice board, if one exists and for the EA to post the notice in the manner set forth in Government Code Section 65091, which requires the EA to notice 1) the owner of the subject property; 2) each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project; 3) the owners of property within 300 feet of the subject property or post a notice in a newspaper of general circulation if there are more than 1,000 owners of property within 300 feet of the subject property, and 4) either post the notice in three public locations (at least one of which must be directly affected by the proposed project) or publish the notice in a newspaper of general circulation. The proposed regulations originally combined the noticing requirements for RFI amendment and modified permits together in Section 21660.1, but because of the processing differences between the two and that modified permits are processed similar to new and revised permits, modified permits were removed from this section and added it to Section 21660.3 Notice for New and Revised Permit Applications. With the move of modified permits into Section 21660.3, the EA is required to meet the same noticing requirements for modified permits except in two areas: 1) noticing the governing body of the jurisdiction where the facility is located and 2) noticing the State Assembly Member and State Senator in whose district the facility is located. The proposed regulations also allow the EA to undertake additional measures to increase public notice, including but not limited to, additional posting at the facility entrance. There is no requirement that the operator post a temporary notice at the facility entrance or the EA post a notice on the EA's, operator's, or Board's website.
21660.3(b)(4)	60-06 PH-08	Finally, we request specific language be added to §21660.0(b)(4) and 21660.4(b)(4) allowing the LEA to require increase public noticing beyond 300 feet of the property boundary if there is a significantly impacted community. (Communities adjacent to landfills usually are not within 300 feet of the property boundary because there are buffer zones or planned green areas to set back the community.) The one last thing I just want to mention, even though it's kind of mentioned in the regs, kind of between the lines, the Government Code that requires noticing within 300 feet of property boundary, landfills a lot of times have the community that's	Please see response to commenter PH-08 regarding Section 21660.2(c)(3).

		impacted beyond 300 feet. And it's a cost to the operators to do the noticing, but I think there needs to be a little bit more language in the regulations that give more power to the LEA to say, look, yes, it says 300 feet, but we have a community at 600 feet. We need to notice. If it's going to cost some money to notice, that's the way it is. We need to be transparent. I think a lot of our operators especially I feel the operators in Orange County will go along with that because we all want to be transparent and be up front with what's going on. But I'm always looking for the worst case scenario, and I want to make sure it's clear the LEA has the ability to require further noticing if reasonable based on the community that's impacted.	
21660.4	60-28	Please see commenter 60-28 comments regarding Section 21563(d)(4).	Please see response to commenter 60-28 regarding Section 21563(d)(4).
21660.4	60-14	As previously mentioned in the discussion of Issue 3, public notice was a focal point of the AB 1497. The ISOR states that "additional informational meeting requirement is necessary to comply with AB 1497 requirements, as well as to be consistent in providing a transparent and accessible permit process." However, the meeting substitution concept not only reduces the opportunity its public participation, but also conflicts with the requirement listed in Section 21660.2(b) to provide an opportunity once the application has been accepted and with the accessibility criteria listed in subsection (c). Please remove this concept from the regulations; from a noticing point of view, it actually discourages participation.	Substitute meetings ensure that the public is involved in the process. Under the proposed text, a meeting cannot be substituted unless it is substantially the same as the informational meeting: it has to be a public meeting on the same project; held within the year after the EA accepts the application as complete and correct; and the EA has to have attended the previously held hearing/meeting, be recognized by the presider of the meeting, and available to answer questions. In addition, the EA is required to provide the same level of noticing when using a substituted meeting as required for an informational meeting. Requiring EA presence at the previously held public hearing to answer questions that only the EA can answer with regard to a proposed new solid waste facility or facility change is consistent with the intent of holding an informational meeting, which is to allow the public to be better informed of changes proposed by the operator. However, if an operator does not want the EA to use a substitute meeting in place of an informational meeting, pursuant to Sections 21660.2(d) and 21660.4, the operator can raise its objection and the EA will not be able to use a substitute meeting.
21660.4(a)	60-16	The proposed regulations would allow the EA to accept an application for a new or revised SWFP if a substituted public meeting was conducted a year prior to the EA filing the application. Even though the informational meeting requirement has been satisfied, the EA still needs to provide public noticing of the accepted application. We have no objections to the public noticing. However, we do object to the public noticing containing information regarding the submittal of comments and the possibility of the public challenging the EA's preliminary determination to the local Solid Waste Hearing Board as proposed in §§21660.4(a)(9) and (a)(10). The appropriate time for the public to bring forth their comments and concerns is during the substituted meeting or during the land use/CEQA approval process. To reopen the commenting period months after the operator has obtain all environmental clearances creates unnecessary burden and scrutiny for the operator. Therefore, §§21660.4(a)(9) and (a)(10) should be deleted.	Providing the public a heads-up about upcoming changes proposed at a solid waste facility as well as the process for permitting those changes, including the availability to comment or appeal the issuance or denial of a permit, is consistent with the intent of AB 1497 to provide additional opportunities for public involvement and adheres with Cal-EPA's Intra-Agency Environmental Justice Strategy's goals: 1) ensure meaningful public participation and promote community capacity-building to allow communities to effectively participate in environmental decision-making processes, and 2) Integrate environmental justice into the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies. PRC Section 44307 applies only to formal discretionary action taken by the EA with regard to the application (i.e., approving RFI amendments or later issuing or denying a modified, revised, or new permit). Pursuant to PRC Section 44307, a hearing can be requested not only by the applicant that is subject to the action, but any person can petition the EA to conduct a hearing. The notice for new or revised permits when using a substituted meeting would be announcing that at a later date when the EA issues or denies the permit, this formal action would be subject to a PRC Section 44307 appeal in Section 21660.4(a)(9) for substituted meetings. The EA is required to post the notice 10 days prior to making a final determination on a new or revised permit.

			To provide the Board with a better understanding of comments that were received by the EA at the substituted informational meeting and to place the comments in the record of approval as well as any written comments received, and, where applicable, any steps that were taken by the EA in response to those comments, a requirement was added in Section 21650(g)(5) that the EA include with the accepted application package that is submitted to the Board, in addition to written public comments received, "… a summary of comments received at the informational meeting that are specific to EA jurisdiction, and, where applicable, any steps taken by the EA relative to those comments." Board staff already asks EAs for this information currently when writing agenda items for the Board meeting. This information assists the Board in determining what general actions if any might be needed to meet EJ objectives. Guidance will be developed for the EA after the regulations are adopted on how they may wish to handle comments received in writing or orally at the informational meeting.
21660.4(a)(4)	60-24	Please see commenter 60-24 comments regarding Section 21660.3(a)(4).	Please see response to commenter 60-24 regarding Section 21660.3(a)(4).
21660.4(a)(7)	60-03	Please see commenter 60-03 comments regarding Section 21660.3(a)(7).	Please see response to commenter 60-03 regarding Section 21660.3(a)(7).
21660.4(a)(9)	60-07	Please see commenter 60-07 comments regarding Section 21660.3(a)(10).	Please see response to commenter 60-07 regarding Section 21660.1(a)(6).
21660.4(a)(9)	60-06	Please see commenter 60-06 comments regarding Section 21660.1(a)(6).	Please see response to commenter 60-07 regarding Section 21660.1(a)(6).
21660.4(a)(9)	60-08	Please see commenter 60-08 comments regarding Section 21660.1(a)(6).	Please see response to commenter 60-07 regarding Section 21660.1(a)(6).
21660.4(b)	60-21	Please see commenter 60-21 comments regarding Section 21660.3(b).	Please see response to commenter 60-21 regarding Section 21660.3(b).
21660.4(b)	60-17	Please see commenter 60-17 comments regarding Section 21660.1(b).	Please see response to commenter 60-17 regarding Section 21660.1(b).
21660.4(b)(4)	60-06 PH-08	Please see commenter 60-06/PH-08 comments regarding Section 21660.3(b)(4).	Please see response to commenter PH-08 regarding Section 21660.2(c)(3).
21663(a)	60-13 60-25	<u>*Specific Request*</u> – Delete the proposed new text "the Executive Director of the CIWMB for." <u>*Discussion*</u> – A primary goal of AB 1497 is to encourage public awareness and participation by local residents impacted by the project. Its intent was not to eliminate the hearing before the CIWMB as proposed by having the Executive Director solely decide on a modified solid waste facilities permit. The above deleted language will help address our concern expressed in item 1*(under section 21563(d)(2))* because it retains the authority of the CIWMB, as the ultimate governing body of the State agency responsible for regulating solid waste facilities, to concur on modified solid waste facilities. If the above text is not deleted, the authority to concur with a modified solid waste facilities permit would transfer to the CIWMB's Executive Director. This authority should rest with the CIWMB because its makeup is purposely designed to represent diverse stakeholders and provide a forum for public hearings and participation in the permitting process. Allowing the Executive Director to be the sole authority to concur with a modified solid waste facilities permit would place too much responsibility on one person without appropriate checks and balances.	The Executive Director should continue to be allowed to concur on modified permits as specified in Sections 21663(a) and 21685(c). The Executive Director has already been delegated by the CIWMB to concur on non-significant permit modifications. PRC Section 40430 allows the CIWMB to delegate any power, duty, purpose, function and jurisdiction which it deems appropriate to the Executive Director. The CIWMB has delegated to the Executive Director in its "Board Governance Policies for Governance and Board-Staff Linkage" Resolution, October 17, 2006, the approval of non-significant modifications to solid waste facilities permits, while retaining approval authority on permit revisions. In adopting the delegation, the CIWMB acknowledged that once the Permit Implementation Regulations are adopted, the delegation language will be simplified to say: "Approve modified permits in accordance with 27 CCR Section 21663(a)." The Executive Director would be required to report to the Board at its next regularly scheduled meeting on the concurrence or denial of modified permits, or the Executive Director could report this information to the Board via a memo. In addition, a notice of the issuance of a modified permit would be posted on the Board's web page or agenda.

21663(a)	60-08	The proposed regulations would require approval by the CIWMB Executive Office (EO), rather than by the Board, for a "modified permit" as classified by the EA. PRC 44009 specifically states that "the board shall, in writing, concur or object" to new or modified permits within 60 days. Because the board must act by a roll call vote at a meeting to which the Brown Act applies, direct Board action always involves public notice and an opportunity to comment prior to Board action. The CIWMB can delegate its modified permit approval function to the EO (PRC 40430), but the effect of the delegation put in place here will be to eliminate the opportunity that applicants and interested parties now have to present their views on modified permits to the full Board at a public meeting. This reduction in the transparency and accessibility of permitting processes at the CIWMB should be reconsidered, or it should be disclosed and explained forthrightly in the rulemaking package. It has not been very many years since the CIWMB defended its existence as a separate agency by emphasizing the importance of access to a board, rather than to an appointed director, on matters such as this.	Please see response to commenters 60-13 and 60-25 regarding Section 21663(a).
21663(a)(1)	60-23	Section 21663(a)(1) – We request that the "design" definition for disposal site be expanded to specify the maximum quantity of waste materials that can be delivered to the facility for processing, on-site beneficial use including alternative daily cover, and disposal.	This comment is outside the scope of these regulations.
21663(a)(1)	60-13 60-25	*Specific Request* – Revised and expand the subsection to read as follows: "As used herein, 'design' means the layout of the facility (including numbers and types of fixed structures *the maximum allowable daily tonnages of waste materials delivered to the facility for processing, on-site beneficial use and disposal***,** total volumetric capacity of a disposal site [or total throughput rate of a transfer/processing station, transformation facility, *gasification facility***,** or composting facility] vehicular traffic flow, and patterns surrounding and within the facility, proposed contouring, and other factors that may be considered a part of the facility's physical configuration." *Discussion* – The above language would make the definition of 'design' more accurate since the limitations on daily tonnages delivered to a facility is a critical element of a facility's design. Also, the term 'gasification facility' was added because it no longer is defined as "transformation" pursuant to Assembly Bill 2770 (2002).	This comment is outside the scope of these regulations.
21663(a)(1)	60-26	The subsection needs to be revised and expanded to include. "Design" should mean the layout of the facility (to include the numbers and types of fixed structures, the maximum allowable daily tonnages of waste materials delivered to the facility for processing, including on-site beneficial use and disposal,)and other factors that may be considered a part of the facility's physical configuration."	This comment is outside the scope of these regulations.
21663(a)(2)	60-23	It is requested that the definition of "operation" be expanded to stipulate the facility daily operating hours, hours of receipt of waste, and the weekdays of operation.	This comment is outside the scope of these regulations.
21663(a)(2)	60-13 60-25	*Specific Request* – Expand the subsection to read as follows: "As used herein, 'operation' means the *process, operating hours, number of operating days/week, closure date (if it's a disposal facility)***,** procedures, personnel, and equipment	This comment is outside the scope of these regulations.

		utilized to receive, handle and dispose of solid wastes and to control the effects of the facility on the environment." *Discussion* – The above language would make the definition of "operation" more accurate.	
21665 header	60-14	Section 21665 applies to permit changes proposed for a permitted solid waste facility. As such, the heading should be amended to read: Section 21665. CIWMB – Processing Proposed Permit Changes at a Permitted Solid Waste Facility (new).	The suggested edits were not made since Section 21665 is not limited to the processing of proposed changes that may require the permit to be modified or revised; it also applies to proposed changes that may require the RFI to be amended. Also, clarification that the facility is "permitted" is redundant since the Title 27 portion of the proposed regulations falls under Subchapter 3 which is limited to the permitting of solid waste facilities.
21665	60-07	Please see commenter 60-07 comments regarding Section 21563(d)(5).	Please see response to commenter 60-07 regarding Section 21563(d)(5).
21665	60-01	Fully support the Decision Tree as a process to identify whether a change in operation or design, is an RFI amendment, Modified or Revised permit action [Title 14, Section 21665]. The Decision Tree describes a process, via a flow chart, to determine whether a change of operation is significant and the appropriate permit process necessary to make the change. The major aspect of the flowchart is it provides for and maintains LEA and EA discretion on determining whether a change is significant or not.	AB 1497, effective January 1, 2004, requires the Board (to the extent resources are available) to adopt regulations that define the term "significant change in the design or operation of the solid waste facility that is not authorized by the existing permit." The proposed regulations define the term "significant change in …" using a methodical process in the form of a decision tree as provided Section 21665 for EAs to follow when they are presented with a request by an operator to make changes to the SWFP. The methodology provides a consistent analytical process for EAs to use that allows EAs to consider site-specific considerations and circumstances when determining if a proposed change is significant and requires a revision to the permit. In following this process, requested changes to design and operation that require the permit to be changed will only be deemed significant if the EA determines that there is a need to condition or limit the new activity in order to protect public health, safety, the environment, or ensure compliance with state standards. The Board's Permitting and Enforcement Committee directed staff at its November 7, 2005 meeting to work with stakeholders in the development of two lists that could be inserted into the regulations prior to beginning the 60-day comment period: first, a list of minor changes that would not require EA review and approval prior to the operator taking action, and, second, a list of changes that would always require a revision to the permit. The purpose of the significant change list is to provide certainty to operators and EAs on what changes could be made by an operator in the design or operation of a solid waste facility that would always require a permit revision. The four significant changes listed in Section 21620(a)(4) were identified through the workshop process held in November 2005 and were recognized during the informal rulemaking process as acceptable changes for the significant change list. The Board considered comments received during the 60-day and 15-day comment periods, and Board staff's analysis in making its decision at its October 17, 2006 meeting to approve retaining the significant change list. The intent of the list is to identify a list of changes in the design or operation of a solid waste facility that would always be considered significant and always require a permit revision. For all other changes in the design or operation of a facility proposed by the operator that do not qualify as a minor change, the EA will use the decision tree in Section 21665 to determine if the proposed change can be approved through an RFI amendment, modified permit, or revised permit.

21665	60-05 PH-04	Fully support the Decision Tree as a process to identify whether a change in design, or new facility qualifies as an RFI amendment, Modified permit, Revised permit , or new permit (Title 14, Section 21620 (2,3,4)) The decision tree includes defining, via a flow chart, whether a change of operation is significant and to what permit process is appropriate for that change. The major aspect of the flowchart is it provides and maintains EA discretion on determining whether the change is significant or not, and maintains local control and discretionary actions in the permit process.	Please see response to commenter 60-01 regarding Section 21665.
21665	60-15	Our members concur with the Bay Area Roundtable, City of San Diego and several other individual Local Enforcement Agencies (LEAs) in their support of the "Decision Tree" as a process to identify whether a change in design, or new facility qualifies as an RFI amendment, Modified permit, Revised permit, or new permit. (Title 14, Section 21620(2,3,4)).	Please see response to commenter 60-01 regarding Section 21665.
21665	60-02	At the February 9, 2006 meeting of the Southern and Southwestern Roundtables a consensus was reached in support of the *decision tree* concept as described in 27 CCR, §21665 *Processing Proposed Changes at Solid Waste Facility* of the proposed regulation package. The Roundtables reached consensus regarding the decision tree process because it clarifies when a proposed change is a significant change or otherwise. It is also transparent and applies well to the diversity of communities and environments in California while allowing for local discretion without assuming a one-size-fits-all definition of *significant change*.	Please see response to commenter 60-01 regarding Section 21665.
21665	60-03	The LEA strongly supports the decision tree concept as described in Title 27, California Code of Regulations, §21665. The decision tree approach provides for an efficient processing of operational and design changes at solid waste facilities dependent on the resultant impacts of the proposed change. In addition, a real benefit of the decision tree concept is the elimination of a one-size-fits-all approach; it acknowledges the diversity of California as a whole.	Please see response to commenter 60-01 regarding Section 21665.
21665	60-22	The LEA supports the Decision Tree concept as a process to identify whether a change in operation or design, is an RFI amendment, modified or revised permit action.	Please see response to commenter 60-01 regarding Section 21665.
21665	60-20	Enforcement agencies should have discretion regarding the level of change rather than relying only on a list that can not include all possible situations. This discretion should apply to both minor changes and significant changes. Enforcement agency discretion is necessary since regulations cannot consider every possible situation for all facilities. Flexibility will allow sufficient ability to cover the range of circumstances. The proposed decision tree provides that assurance.	Please see response to commenter 60-01 regarding Section 21665.
21665	60-10 PH-09	While we oppose additional noticing, the Southcentral Roundtable does support the decision tree for determining whether a proposed action constitutes a significant change. The tree provides the best process for defining a significant change while preserving LEA discretion.	Please see response to commenter 60-01 regarding Section 21665.

21665	60-28	Regulations cannot anticipate every situation and cannot predetermine the significance of what an inspector may find. The EAs need regulations that are strong, but flexible enough to cover a broad array of circumstances. The decision tree approach of Title 22, California Code of Regulations section 21665 provides EAs with an opportunity to consider the specific circumstances of a facility. While acknowledging the great effort that went into providing a reasonable list, the "decision tree" approach fulfills the goals of ESD better than the "list" approach.	Please see response to commenter 60-01 regarding Section 21665.
21665	60-06 PH-08	The Orange County Solid Waste Local Enforcement Agency (LEA) has reviewed the proposed regulatory changes and would like to first applaud the concept of a decision tree for Local Enforcement Agencies to use in determining how to process proposed changes at solid waste facilities and to determine significant change in design or operation of the solid waste facility that is not authorized by the existing Solid Waste Facility Permit. The decision tree process as outlined in Title 27 Californian Code of Regulations (CCR), §21665 describes a transparent decision making process that allows for Local Enforcement Agency discretion and is well suited to the diversity of solid waste facilities and the communities they serve.	Please see response to commenter 60-01 regarding Section 21665.
21665	PH-03	The decision tree concept, I think the real benefit of that – it's pretty much what we're doing now anyway in large measure, but it does add clarity to the process, which is one thing that I hope that comes out of all of these regulations is we have more and more clarity and certainty as to what you have to do to get a permit for a certain thing, a certain kind of change you're going to do in your facility. And I think the decision tree is a good piece of work to get to that point.	Please see response to commenter 60-01 regarding Section 21665.
21665	60-08	The proposal could be clearer concerning how distinctions between RFI amendments, significant changes requiring a revised permit, and lesser changes requiring only a modified permit, will be made. A key consideration should be to make clear that these determinations are to be made by the LEA, or if proposed to the LEA by an applicant, can be accepted or rejected by the LEA	Section 21665(b) indicates that the EA makes the determinations.
21665(a)	60-14	Section 21655(a) fails to state the type of application package that should be submitted, though only two (RFI and New Permit) application packages appear to exist. As previously mentioned there is no opportunity to begin the modified permit process directly. Please clarify which application(s) should be completed.	For existing permits, the applicant would start with an RFI amendment application. However, nothing in the existing or the proposed regulations precludes an operator from applying directly for a modified or revised permit. If it is mutually determined through discussion between the operator and EA that a change is subject to a modified or revised permit process, the operator has the choice of going directly to the appropriate process. The operator would still need to apply 180 days prior to making the change.
21665(c)(1)	60-11	The proposed regulations preclude any proposed change that was found to have no significant impacts through the preparation of an initial study and adoption of a Negative Declaration by the EA from being considered as a RFI amendment. The proposed regulatory language in Subsection 21665(c)(1) requires that the EA find that no subsequent Environmental Impact Report (EIR) or Negative Declaration is warranted in order for the proposed change to be processed as a RFI amendment. By definition in the California Environmental Quality Act (CEQA), a Negative Declaration is a finding that the project (i.e., change) has no significant adverse effects on the environment. A *Mitigated* Negative Declaration achieves a level of	The request to modify the proposed regulations in Section 21665(c)(1) to allow proposed changes to be processed as RFI amendments when a subsequent initial study needs to be prepared and a Negative Declaration adopted by the LEA is outside the scope of the regulatory package. The proposed regulations do not make any changes relative to CEQA. Current regulations indicate that for projects that come to the EA and the EA determines that the application is not consistent with an existing CEQA document, then the application cannot be processed as an RFI amendment. It is not within the scope or intent of the regulations to change these existing requirements. If the EA determines a need to do a new CEQA document (because it found the RFI amendment to be inconsistent with existing CEQA

		insignificance through project revisions or mitigations. We suggest that Subsection 21665(c)(1) be modified as follows to allow proposed changes processed with Negative Declarations as RFI amendments since no project revisions or mitigations are necessary to find no significant impacts on the environment: "(1) The EA finds that the proposed change is consistent with all applicable certified and/or adopted CEQA documents in that no subsequent EIR, *Mitigated* Negative Declaration, or supplemental EIR is warranted pursuant to Title 14, Chapter 3, Article 11, Section 15162 or Section 15163, or if the EA finds that the change being requested is exempt from the requirements of CEQA pursuant to Title 14, Chapter 3, Article 5, Sections 15060 and 15061;" As permitted in CEQA, public agencies can be the lead agency for its own projects and can adopt Negative Declarations or EIRs for such projects. It is our understanding that proposed changes with Negative Declarations already adopted by a public agency, such as the County Sanitation Districts of Los Angeles County (Districts), can be processed by the EA as a RFI amendment provided that all the requirements in Section 21665(c) are met.	document(s)), then the EA will be required to reject the application and require the operator to submit an application for a permit modification or revision. However, an operator could choose to withdraw an application and later submit it with CEQA documentation that is consistent with the application, and allow the EA to process the change as an RFI amendment process.
21665(d)	60-19	With this in mind, the CRRC supports the following elements of the proposed regulations: o The new method to change activities at a solid waste facility by means of a "modified permit" to allow modifications to a permit for changes that are less than significant;	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21665(d)	60-20	Please see commenter 60-20 comments regarding Section 21563(d)(5).	Please see response to commenter 60-09/PH-01 regarding Section 21563(d)(5).
21665(d)	60-21	What is troubling to the Department from this current effort is that the CIWMB has used AB 1497 to develop another unnecessary layer of permitting (the "modified permit" track). It is our belief that the "modified permit" would only serve to deflect clarity and continue to require CIWMB staff to autonomously and inconsistently interpret the process, even after permit issuance and clear conditions are placed in writing. In our opinion, the most important issue at stake in this promulgation process is the adherence to the statutory requirement of AB 1497 to define "significant change". The Department believes that to comply with the AB 1497 mandate, that CIWMB should adopt regulations that only define the term "significant change" and direct the EA/CIWMB staff to find that items not listed in the "significant change" definition do not require permit revision. No new "modified" permit process would be necessary. The Department disagrees that less than significant changes to a permit still require permit revision and CIWMB concurrence. The Department further believes that no notice is necessary to EA or CIWMB for less than significant changes, particularly if not required to have EA review and approval. Attached is our suggested list of "significant changes".	PRC Section 44009 requires that the Board concur on modifications to permits, not just revised and new permits. AB 1497 included additional requirements for revised permits. Pursuant to AB 1497 and the need to define changes that require a permit revision, it is apparent that there is need to define a process for changes that do not require a permit revision, but still require the permit to be changed. The proposed regulations indicate the process for other changes to the permit that do not require revision. Currently, the only process defined in existing regulations to make any changes to a solid waste facilities permit is to revise the permit. This means less than significant changes must be processed and brought to the Board at a regular Board meeting for concurrence as a revised permit. Creating a modified permit process allows modifications to a permit for changes that do not require a permit revision. The proposed regulations provide that the Board's Executive Director would have the authority to act on behalf of the Board on modified permits.
21665	60-14	The decision tree provided at the end of Section 21655(a) to illustrate the process	The suggested edit was not made to the decision tree diagram. The flow of the

decision tree diagram		used by the EA and the operator to determine how a change will be processed remains confusing. As non-material changes by definition will never be significant, switch the third and first boxes of the proposed decision tree flow diagram. Consistent with our request to refine terms the "proposed changes" discussed in the first box should read "proposed physical change."	decision tree starts with changes that require a change to the RFI only and not to the permit, then to changes that require a change to the permit either by modification or revision. The term "nonmaterial" only applies to proposed changes that would require a change to the permit and qualify as a permit modification. The change can be physical, but the key is it can't alter the approved design or operation of the facility. Second, a proposed change can qualify for a modified permit if it does result in a physical change to the existing design and operation of the facility (i.e., it is not a "nonmaterial" change), but the EA sees no need to add to the permit further restrictions, prohibitions, mitigation, terms, conditions, or other measures to protect public health, public safety, ensure compliance with SMS, and to protect the environment (Section 21665(d)(2)). This means that as long as a proposed change that requires the permit to be changed (be it a physical change or not) does not require additional restrictions, prohibitions, mitigation, terms, conditions, or other measures to be added to the permit by the EA, it can qualify as a permit modification. If the EA does see the need to add a restriction, prohibition, etc. to the permit to adequately protect public health, public safety, ensure compliance with state minimum standards, and to protect the environment, then the change is determined to be significant and the permit needs to be revised.
21666(b)	60-18	Section 21666 (b). CIWMB – Processing Report of Facility Information (RFI) Amendment(s). – This section should be changed to reflect the fact that RWQCBs are not typically involved in transfer station permits.. Please revise the section as follows: (b) Within 5 days of acceptance for filing of the RFI amendment application package, the EA shall notify the operator, the CIWMB and the RWQCB, if applicable, of its determination. The EA shall include in their notification to the CIWMB, a copy of the accepted RFI amendment(s), and a copy of the application form along with the EA determination specified in ¶(a).	Section 21666(b) was edited as suggested.
21666(c)	60-07	Section 21666 (c) addresses the approval and denial of RFI amendments. In cases where some of the amendments meet the requirements for approval and others do not, will the LEA still be able to approve those amendments that do meet the requirements or does the whole application package need to be denied?	Section 21666(a) allows the EA to accept or reject some or all of the amendments.
21666(c)	60-08	The proposal could be clearer concerning how distinctions between RFI amendments, significant changes requiring a revised permit, and lesser changes requiring only a modified permit, will be made. A key consideration should be to make clear that these determinations are to be made by the LEA, or if proposed to the LEA by an applicant, can be accepted or rejected by the LEA At section 21666, the proposal appears to contemplate that applicant will make the initial determination as to whether a proposed change qualifies as an RFI amendment, with the possibility an LEA may pare down the changes that will be approved on that basis. The section should further provide that the LEA may reject an application for an RFI amendment if the LEA concludes that a permit amendment is needed instead. Section 21666 further provides that an applicant retains a right to appeal. In contrast, at 21665(b) this RFI determination, and the determination as to whether a	Section 21665 indicates that it is the EA that makes the determination. Section 21665(b) indicates the options available to the EA in processing a proposed change. Section 21666 includes details of the process used by EAs for RFI amendments, including denying some or all of the amendments and requiring the operator to submit an application for a modified or revised permit. To address the concern that the public could mistakenly think that non-formal actions taken by the EA would be subject to a PRC Section 44307 appeal, the proposed regulations clarify in Sections 21660.1(a)(6), 21660.3(a)(10) and 21660.4(a)(9) that the noticing on the availability of an appeal process pursuant to PRC Section 44307 applies only to formal discretionary action taken by the EA with regard to the application (i.e., approving RFI amendments or later issuing or denying a modified, revised, or new permit). Because the notice for an RFI amendment would be distributed after the EA has already approved the amendment, the notice would announce that the EA's approval is subject to a PRC 44307 appeal

		more significant change should be classified as a "modified" or "revised" permit, are expressly reserved for the LEA, and appeal rights are not expressly addressed. All LEA determinations concerning the classification of applications for processing purposes are interim decisions that do not finally determine the rights of an applicant, whether a permit will be granted or denied, or how a permit may be conditioned. These regulations should make it clear that these interim, procedural LEA determinations are <u>not</u> subject to appeal. The LEA recommends that sections 21660.1 (a) (7), 21660.3 (a) (11), and 21660.4 (a) (10) be deleted. Requiring the LEA to provide information on the availability of appeals in the circumstances addressed by those sections would make the determination subject to an appeal. The LEA determines that an application is complete, the classification of a proposed change for processing purposes, and/or the notice that an information hearing will be held should not be subject to appeal. The LEA has not taken an action at this point except to receive the application, classify the change, and notice a meeting. An appeal is premature. PRC 44300 provides for appeals of permit denials, suspensions and revocations, not for appeals of interim decisions that are a part of the permitting process. These regulations should therefore not refer to or purport to create any right to interim appeals of EA classification decisions. Instead, notice of appeal rights should be provided only when action has been taken to grant and to specifically condition, or to deny, a permit or permit modification. Allowing appeals of intermediate EA determinations would give an applicant and possibly the public, too much leverage over the permitting process.	in Section 21660.1(a)(6). The notice for new, revised, or modified permits would be announcing that at a later date when the EA issues or denies the permit, this formal action would be subject to a PRC Section 44307 appeal in Section 21660.3(a)(10) and Section 21660.4(a)(9) for substituted meetings.
21666(c)	60-14	Please see commenter 60-14 comments regarding 21620 flow diagram.	Please see response to commenter 60-14 regarding 21620 flow diagram.
21675(a)	60-13 60-25 60-23	<u>*Specific Request*</u> – Revise the subsection to read as follows: "Except as provided in Section 21680, all full solid waste facilities permits shall be reviewed and if necessary modified or revised, from the date of last issuance at least once every five years. *The operator shall file a notice (with necessary documentation) of the five year review no less than 180 days before it is due.*" <u>*Discussion*</u> – We believe it is the operator's responsibility to ensure that all its' operating permits are current and in good standing. The responsibility for the five-year review notice must rest with the operator/permittee and not the EA as is the case for counties when preparing the five-year review of the Countywide Integrated Waste Management Plan.	The EA shares responsibility in maintaining the permits they issue and requiring that they be reviewed every 5 years. The EA notices the operator to apply for a permit review, the operator applies for a permit review; the EA prepares the permit review report. The operator does not prepare the report. Therefore, the EA continues to be required to notice the operator of their need to submit a permit review application.
21685(b)(4)	60-28	Please see commenter 60-28 comment regarding Section 21570(a) and (b).	Please see response to commenter 60-28 regarding Section 21570(a) and (b).
21685(b) (6)	60-13 60-25	Please see commenters 60-13 and 60-25 regarding Section 21570(f)(9).	Please see response to commenters 60-13 and 60-25 regarding Section 21563(d)(2).
21685 (c)	60-16	The Permit Implementation Regulations proposes the Modified Permit process concept which would grant the Executive Director of the CIWMB authority to revise a SWFP provided that the revision is a nonmaterial change, is not a significant change, and would not require additional mitigations, conditions, or prohibitions to the operating SWFP. Based on the criteria that would have to be	The modified permit process is a total of 180 days. PRC Section 44009 requires the Board to act on modifications to permits within 60 days; it does not require them to take 60 days. The 60 days indicates when the permit is deemed concurred upon. These are maximum times and the actual time could be less, especially for "nonmaterial" changes. Some modified permits will not be "administrative" and

		met for the Modified Permit process, the majority of changes would be administrative in nature in terms of making corrections to the SWFP due to typographical errors or updating other regulatory agency permits listed on the permit. The timeframe proposed for the Modified Permit process is 150 days. We believe the 150 days is too long and needs to be shortened to 90 days. As stated in our first comment, the EA does not require 60 days to draft a new SWFP let alone making editorial changes and updates to an existing permit. Similarly, the Executive Director does not need 60 days to concur or object on a SWFP where the change is strictly administrative versus a change in design or operation. The 60 days in statute is to accommodate the board members since Board meetings are only held once a month. The SWFP is not presented in a public forum setting for the Modified Permit process. Therefore, we are suggesting that EAs be given 30 days to file an application, 30 days to make the necessary changes and updates to SWFP, and 30 days for the Executive Director to concur or reject the permit. By shortening the schedule for processing permits to a more reasonable timeframe, the permitting process becomes less bureaucratic for an operator.	will require analysis, requiring all the findings to be made.
21685 (c)	60-28	If requirements can be identified that fully address all problems associated with a facility, and the applicant agrees to all requirements, the project should be approved. Clarity and an end to the process, even if the answer is no, is of great value. Section 21685 subsection c should be changed accordingly. However, an appeal process should be provided when an applicant disagrees with the Executive Director's decision.	Existing regulation, Section 21685(c), is very clear that the Board shall either concur or object to the issuance of the proposed permit. The Board is required to include with its objection an explanation of its action, which may suggest conditions or other amendments that may render the proposed permit unobjectionable. However, the existing regulations make it clear that the Board's suggestions do not constitute approval of the proposed permit subject to incorporation of the suggestions. Any changes made to the permit to satisfy the Board's suggestions would need to be re-submitted by the EA to the Board for concurrence or objection. Since the Executive Director would be acting on behalf of the Board, the Executive Director would be making the same assessment as the Board, i.e., if the permit meets the requirements of PRC 44009, then the Executive Director must concur. Decisions made by the Executive Director should not be something that can be formally appealed to the Board, but can continue to be addressed through litigation, just as Board decisions are subject to judicial review now. This is similar to the process for issuing stipulated agreements that allow a temporary waiver from specific terms and conditions of a solid waste facilities permit during temporary emergencies (Title 14 Section 17211 et seq). The EA issues a stipulated agreement, sends it to the Executive Director for review, who may add conditions, limits, suspend, or terminate the stipulated agreement. Actions taken by the Executive Director are not something that can be formally appealed to the Board. Also, similar to the stipulated agreement process, the Executive Director would be required to report to the Board at its next regularly scheduled meeting on the concurrence or denial of modified permits, as currently required for stipulated agreements, or could report via a memo. Lastly, a notice of the issuance of a modified permit would be posted on the Board's web page or agenda, similar to the required posting of stipulated agreements. The public can appeal the issuance of the permit by the EA to a hearing panel or hearing officer if the EA fails to comply with the Integrated Waste Management Act in issuing the permit. This appeal could be appealed through the appeal process up to the Board for a decision.

21685 (c)	60-03 PH-07	With the inclusion of the permit modification process allowed by the decision tree model, additional clarification is warranted in the event the Executive Director objects to the proposed permit. We suggest that the Executive Director's decision be appealable to the Board. <u>Public Hearing</u> Another issue in regards to permit modifications, that process would allow the Board's Executive Director to concur or object to a non-material change to an application or permit. However, the permit modification process as proposed does not provide for recourse if the Executive Officer objects to the application. Basically, he would give his list of reasons and then send the application back. Where we would like to see some sort of an appealable process that would allow the LEA or more perhaps the applicant if they disagreed with the determination made by the Executive Officer that instead of – that would effectively send that application all the way back to square one, where they'd have to go back and have a hearing by the enforcement agency again and start over the whole 180-day process. Whereas, if there was an opportunity to appeal that objection to the modification, then perhaps it would either, you know, be held up or it might be, you know, have to go back. But there would be more of a recourse for the operator or the applicant or for perhaps even the LEA.	Please see response to commenter 60-28 regarding Section 21685(c).
21685 (c)	60-20	In line with one of the purposes of AB 1497 (Montanez), which is to expand citizen involvement in the Solid Waste Facility permit process, SWANA is agreeable to having the Executive Director of the CIWMB be involved with the modified permit decision process. SWANA, however, would like to recommend that the decision by the Executive Director be one that can be appealed to the CIWMB.	Please see response to commenter 60-28 regarding Section 21685(c).
21685 (c)	60-08	Please commenter 60-08 comments regarding Section 21663(a).	Please see response to commenters 60-13 and 60-25 regarding Section 21663(a).
21685(c)	60-28	As existing regulations are written, under section 18105.2 subsection i, if the Board is tied, then concurrence is assumed without an affirmative vote. However the Board, as a responsible agency, must also adopt the CEQA document. To avoid confusion, it should be made clear what the status of the CEQA document is under this circumstance. The cleanest way would be to make it "adopted" in this case.	This comment is outside the scope of these regulations.
17388.4(i) and 17388.5(b)	60-28	Section 17388.4, subsection i and section 17388.5, subsection b, can be deleted, since it is now past February 24, 2005.	This comment is outside the scope of these regulations.
18077(a) (12) and 18083(b)	60-21	The Department is supportive of this issue, but believes sufficient latitude already exists to allow the EA to conduct inspections without prior notice on randomly selected days during normal business hours. This has been our experience.	Requiring EAs to conduct random inspections whenever possible should strengthen the concept that inspections be conducted as surprise, random inspections, providing consistency among all types of solid waste facilities and operations in requiring random and unannounced inspections.
18103.1	60-29	The point that we were trying to make in our previous correspondence is that, in essence, the Staff goes well beyond what the Legislature appears to have intended with respect to regulating minor day-to-day activities at solid waste facilities, while at the same time falling short with respect to requiring proper notice and process when permitting of new small to medium facilities. Our concerns with respect to permitting new facilities are contained, in part, in our consultant's letter dated June	This comment is outside the scope of these regulations.

		6, 2006 (see attached). What I suggest with respect to new facilities is that the Notification Permit process be abolished. A new facility processing 200 tons per day (for example) should not be allowed to be permitted without a public hearing and CEQA compliance. In short, we should not sacrifice environmental protection, even for recycling. The lowest tier should be the Registration Permit process, which should require a "sign off" from the local authority with respect to CEQA compliance (Initial Study included). A zoning/land use consistency determination should also be made in writing by the local planning official. Although a public hearing is required for a Registration Permit, more public notice is suggested, as outlined by Mr. Cupps.	
18103.2	60-12 60-29	In contrast to the relatively modest changes which can occur at a facility through an RFI amendment, much more substantial changes could occur at a site through the mechanism of an LEA Notification tier "permit" without any public notification whatsoever. For example, assuming that the operations were kept separate, an existing site could add a C& D wood chipping and grinding operation handling less than 200 tons per day and/or a green waste composting operation with up to 12,500 cubic yards of material onsite to an existing site without any public notice whatsoever. At a minimum, LEAs should be required to provide notice of such changes to any person having requested such notification in writing. Specifically, Section 18103.2 of the existing regulations should be amended to read: **18103.2 Record Keeping Requirements.** The enforcement agency shall retain the notification received pursuant to section 18103.1 which shall be publicly available during normal business hours. The enforcement agency shall forward a copy of the notification to the board within five days of receipt. The enforcement agency shall retain a copy of the notification for a minimum of one year after the facility is known to have ceased operations. <u>The EA shall mail written notice of such notification to every person who has submitted a written request for such notice</u>.	This comment is outside the scope of these regulations.
18104.1(e) and 18105.1(g)(1)	60-28	Please see commenter 60-28 comment regarding Section 21570(a) and (b).	Please see response to commenter 60-28 regarding Section 21570(a) and (b).
18104.1(e)(2)	60-28	**Regulatory Tiers: Registration Permit filing requirements:** Section 18104.1, subsection e(2): SRREs can and should be updated with annual reports. The words "as amended with the annual report" should be added.	This comment is outside the scope of these regulations.
18104.1(g) and 18105.1(i)	60-21	Please see commenter 60-21 comments regarding Section 21570(a) and (b).	Please see response to commenter 60-21 regarding Section 21570(a) and (b).
18104.1(g) and 18105.1(i)	60-28	Please see commenter 60-28 comment regarding Section 21570(a) and (b).	Please see response to commenter 60-28 regarding Section 21570(a) and (b).
18104.1(g) and 18105.1(i)	60-04 60-27	Please see commenters 60-04 and 60-27 comments regarding Section 21563(d)(2).	Please see response to commenters 60-13 and 60-25 regarding Section 21563(d)(2).

18104.1(g) and 18105.1(i)	60-13 60-25	*Specific Request* – Add the following subsection: "(k) A copy of all land use entitlements for the facility (e.g. conditional use permits, zoning ordinance, etc.), and a letter issued by the local planning agency or commission verifying that the proposed permit activity is consistent with the land use entitlements for the facility." *Discussion* – The above language will help address our concern expressed in item 1above *(under section 21563(d)(2))*.	Please see response to commenters 60-13 and 60-25 regarding Section 21563(d)(2).
18104.1(h) and 18105.1(j)	60-03	Please see commenter 60-03 comments regarding Section 21570(f)(11).	Please see response to commenter 60-03 regarding Section 21570(f)(11).
18104.1(h) and 18105.1(j)	60-21	Please see commenter 60-21 comment regarding Section 21570(f)(11).	Please see response to commenter 60-21 regarding Section 21570(f)(11).
18104.2(e) and 18105.2(f)(2)	60-28	Please see commenter 60-28 comment regarding Section 21563(d)(4).	Please see response to commenter 60-28 regarding Section 21563(d)(4).
18104.2(e) and 18105.2(f)(2)	60-06, PH-08	We request that the requirement for informational meetings be only for full solid waste facility permits and not be required for standardized or registration permits. AB 1497 required public meetings for revised solid waste permits and it is only in these proposed regulations that new permits were added to this requirement. We support having informational meetings for new full solid waste permits but do not see a need for informational meetings for standardized or registration permitted facilities. These facility type permits were established by the Board due to determination of no need to add site specific conditions to the permits and, in the case of registration permits, the need for Board concurrence. Also, because it appears that standardized and registration permits cannot be modified, a new informational meeting will be required for minor changes to the permits. Requiring informational meetings for standardized or registration permits is not needed and will be overly burdensome on the limited resources of LEAs and represent an unnecessary cost to operators. Public Hearing There's one thing that nobody has mentioned yet. There's a requirement for informational meetings on, you know, new permits or revised permits. But also standardized permits and registration permits can be new and revised. And the whole process of informational meetings and the whole thing shouldn't be meant for standardized and registration permits. They're really meant for full permit. AB 1497 was focused on revised permits, full permits. It wasn't focused on registration or standardized. Standardized and registration permits from the Board was meant to be a shorter process, you know, for facilities that have less significant issues. And so to slow down that permit process to have an informational meeting I think defeats the purpose of why we have standardized and registration permits. The time frames are all shorter. So let's just keep it with revised permits and new permits require an informational meeting. We still have all the noticing requirements that we can go with standardized and registration, but let's take that out. I think it costs a lot of money for LEA resources and it costs the operator lots of money. So we	Please see response to commenter PH-08 regarding Section 21660.2(a)

		don't need that.	
18104.2(e) and 18105.2(f)(2)	60-15	We also urge your Board to restrict the requirement for informational hearings to full solid waste facility permits – and not standardized or registration permits.	Please see response to commenter PH-08 regarding Section 21660.2(a)
18104.2(e) and 18105.2(f)(2)	60-10 PH-09	Please see commenter 60-10 and PH-09 comments regarding Section 21660.2(a).	Please see response to commenter 60-08 regarding Section 21660.2(a).
18104.2(e) and 18105.2(f)(2)	60-08	Please see commenter 60-08 comments regarding Section 21660.2(a).	Please see response to commenter 60-08 regarding Section 21660.2(a).
18104.7(b) and 18105.9(b)	60-21	The Department agrees that a better effort needs to be made at ensuring consistency in task and elimination of confusion among regulators regarding their responsibility. In that regard, the Department is supportive of the EA being solely responsible for notifying the Operator and CIWMB of five-year review for full permits (currently the EA) and registration and standardized permits (currently CIWMB).	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
18104.7(b) and 18105.9(b)	60-19	With this in mind, the CRRC supports the following elements of the proposed regulations: o The requirement for the EA to notify all facility operators when they must apply for a five-year permit review of their permit, bringing consistency to the process;	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
18104.7(b) and 18105.9(b)	60-03	As discussed during numerous public workshops and informational meetings, one of reasons for having the EA notice the operator of the Permit Review in Title 14 was to be consistent with language for full permits in Title 27. The noticing required by 27CCR 21675 is to the operator only; it does not include noticing the board. Therefore, all sections in Title 14 dealing with permit review noticing should strike Board noticing.	Section 18104.7(b) was edited to delete the Board being noticed by the EA.
18104.7(b) and 18105.9(b)	60-10, PH-09	Finally, the draft regulations propose to shift the responsibility for notifying operators of notification and standardized tier operations of an upcoming permit review. While this shfit may seem insignificant, again, it represents another complicated task for small, rural LEAs to track. The CIWMB has demonstrated its acumen at managing databases and tracking time critical tasks through its work on the SWIS database and the Inventory of Violators of State Minimum Standards. We therefore request that the CIWMB retain the notification duty currently outlined in the existing regulation.	The proposed regulations require the EA, instead of the Board, to notify all facility operators of the need to apply for a five-year permit review, including registration and standardized permits. This is necessary to bring consistency to the task and to eliminate confusion among EAs as to their responsibilities. However, during the time of transition, the Board will provide assistance to EAs in the noticing.
18104.7(b) and 18105.9(b)	60-23	We believe that it is the *responsibility* of the facility operator to insure preparation and submittal of the SWFP five year review report to the EA prior to, but not later than, five years from the issuance date of the SWFP. We request that the regulations be revised to clarify this responsibility to be on the facility operator. The EA understands that the EA *is required* to give the operator a notice of the five year review 180 days before the said report is due.	Please see response to commenters 60-13, 60-25, and 60-23 regarding Section 21675(a).

18105.2(i)	60-28	As existing regulations are written, under section 18105.2 subsection i, if the Board is tied, then concurrence is assumed without an affirmative vote. However the Board, as a responsible agency, must also adopt the CEQA document. To avoid confusion, it should be made clear what the status of the CEQA document is under this circumstance. The cleanest way would be to make it "adopted" in this case.	This comment is outside the scope of these regulations.
Minor edits	60-28	Throughout the document, changing Facility to Facilities did not improve readability. Page 1 line 32, page 10 line 6, page 22 line 39 page 26, line 16, "which" should be "that." Page 2 line 2, "Denial" – D should be small case. Page 3 line 36, "enforcement agency" should be EA. Page 25 line 34, there should be a comma before the "which." Page 25 line 35, to avoid possible multiple meanings of this sentence, a period should be placed after the word "agency" and a new sentence should begin, "The application shall be accompanied . . .." Page 27 line 24, delete "which is."	Page 1 line 32 – The sentence that contained the word "which" was deleted. Page 10 line 6 – Line 6 does not include the word "which." Page 22 line 39 and page 26, line 16 – These edits are outside the scope of these regulations. Page 2 line 2, "Denial" – "D" was changed to small case. Page 3 line 36 - "Enforcement agency" was changed to EA. Page 25 line 34 – A comma was inserted before the "which." Page 25 line 35 – This edit was made. Page 27 line 24 – This edit was made.
Other	60-17	**The Regulations Fail to Remove the Cap on Civil Penalties.** AB 1497 removes the $15,000 cap on administrative civil penalties for violations as well as the restriction prohibiting fines for the first three violations. Pub. Res. Code § 45011(a). Under AB 1497, civil penalties can be required for the first violation with no upper limit. This is a significant improvement to the current enforcement system since it is likely to deter violations by making it less cost effective to violate permit conditions. Enforcement tools that deter non-compliance are important facets of environmental justice. However, the current proposed rules are silent on this aspect of AB 1497. As part of the rulemaking documents, the CIWMB makes clear that the currently proposed regulations are part of a three phase implementation effort for AB 1497. It is important that this enforcement aspect of the bill is implemented quickly.	This comment is outside the scope of these regulations.